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ABSTRACT

Policy decisions facing the California legislature and the Governor concerning the State's role in private postsecondary education are at the heart of this report. Described are the existing problems in the operation and effectiveness of California's "Education Code," which regulates these institutions. Chapters include: an introduction; background for the study; descriptions of private postsecondary institutions in California; the administration and enforcement of Division 21: degree-granting institutions--the "A-3 Problem;" consumer protection issues; the issue of accreditation; and contracting with private schools. Seven major conclusions are drawn, among them (1) California laws regulating private institutions are among the oldest in the nation; (2) continued inaction by state governments to enact consumer-oriented legislation to regulate private institutions could lead to the pre-emption of current state laws by more stringent federal laws; and (3) California has the largest number of private institutions in the nation. One of several recommendations suggests that the legislature undertake a complete revision of both Division 21 and the process by which it is implemented and administered. Some 22 appendices offer information such as the survey used in the study, survey participants, survey results, a list of accrediting agencies, A-3 schools by type, Division 21 of the Education Code, and sections of the Education Code to be affected by court decision. (LC)

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California Postsecondary
Education Commission

July 19-20, 1976

Resolution 17-76

Adopting the Report
The Role of the State in Private
Postsecondary Education:
Recommendations for Change

U.S. DEPARTMENT OF HEALTH,
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WHEREAS, The Legislature, through SB 355 (Chapter 671, Statutes of 1974), directed the California Postsecondary Education Commission to conduct a comprehensive study of Division 21 of the Education Code, which would assess

. . . the operation and effectiveness of Division 21 . . . in assuring the quality of degree, certificate, and other educational programs offered by private institutions of postsecondary education, and in providing the educational consumer with protection from substandard educational enterprises, together with recommendations for necessary and desirable changes in that division.

and

WHEREAS, The Commission report prepared in response to that directive concludes that California's laws regulating private postsecondary education are some of the oldest in the nation and, compared to those of other states, lack certain important consumer protection provisions, and

WHEREAS, The report further concludes that there have been major deficiencies in the administration and enforcement of Division 21, and that these deficiencies have been caused by (1) the limited budget of the Bureau of School Approvals for the administration of Division 21, (2) the subsidiary role of the Bureau within the Department of Education, and (3) the Department of Education's primary concern with elementary and secondary education, and

WHEREAS, The report finally concludes that there are provisions in Division 21 which contain loopholes which might allow unscrupulous persons to establish and operate schools at the expense of the student, in particular, and of the public interest, in general; now, therefore, be it

RESOLVED, That the California Postsecondary Education Commission adopts the report, The Role of the State in Private Post-

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secondary Education: Recommendations for Change, and the recommendations contained therein; and be it further

RESOLVED, That the report be transmitted formally to the Legislature and the Governor for their consideration, with Commission recommendation that the Legislature undertake a complete revision of both Division 21 and the process by which it is implemented and administered.

Adopted
July 19, 1976

Commission Report 76-7
July 1976

The Role of the State in Private Postsecondary Education:
RECOMMENDATIONS FOR CHANGE

A Report
Prepared by the
California Postsecondary Education Commission

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PREFACE

California has the largest number of private postsecondary institutions of any state in the nation. This segment of California education is second only to the Community Colleges in terms of the number of students enrolled annually. Moreover, many of the private degree-granting and vocational/technical schools offer truly excellent educational programs.

In spite of these important contributions, the private institutions have received only limited attention at the State level. However, given the predicted steady state in educational enrollments and the already existing limitation on available financial resources, the time has now arrived for the private sector to be placed in a position of parity with the three public segments for purposes of statewide planning and utilization of educational resources.

This report will provide a solid base for the policy decisions which need to be made by the Legislature and the Governor concerning the State's role in private postsecondary education. The report describes the existing problems in the operation and effectiveness of California's Education Code, which regulates these institutions, and offers several recommendations for necessary and desirable changes.

Bruce D. Hamlett, Project Director; Gregory Trout; Linda Belanger; and Janis Alford of the Commission staff are to be commended for their work in preparing this report.

Donald R. McNeil
Director

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The authors wish to acknowledge the contributions of several people who assisted in the development of this report. Among those who provided constructive comments and suggestions on the initial draft of this report, our appreciation is particularly directed to John Humphreys, Richard Gross, Erwin Skadron, Ernest Baumeister, Cleve Cunningham, Dan Heffernan, Peter Hobbs, Don Bogue, Robert McBirnie, Jay Olins, Alvar Yelvington, Christine Ford, Ken McEldowney, Betsy Lederer, and Jonathan Brown. While none of these individuals will agree with all of our conclusions and recommendations, our work has benefited from their criticism.

The Department of Education, and particularly O. D. Russell, Xavier Del Buono, and Harvey Hunt, were most cooperative in working with us and making their information available to us. Their cooperative attitude in helping us prepare a report which is critical of the Department is commendable. Appreciation is also expressed to Morgan Odell, Dave Grover, Kay Andersen, R. F. Welch, Tom Harris, and John Leslie for their assistance in our work. Special acknowledgment must also be given to Ann Truskett, for without her help the report would not exist.

I. INTRODUCTION

California has the most extensive network of private postsecondary institutions in the United States. Until recently, however, only limited attempts have been made to gather information about these institutions in any systematic way. Consequently, the information currently available about private institutions is less than adequate and there is little basis on which to evaluate the strengths and weaknesses of this segment.

Private institutions in California are governed by Division 21 of the Education Code, which requires State licensing of all institutions, ranging from colleges and universities with a full complement of educational offerings to proprietary schools and institutes with specialized curricula.¹ The Bureau of School Approvals in the Department of Education is the State agency primarily responsible for administering Division 21. Recently, concern has been expressed about the adequacy of the law and the supporting regulations. Also, questions have been raised about the ability of the Bureau to protect the student consumer and assure the quality of the educational product, given its present limitations in budget and staff.

Acting on these concerns, the California Legislature, through Senate Bill 355, directed the California Postsecondary Education Commission to conduct a comprehensive study of Division 21 which would consider, but not be limited to:

- (a) the development of a complete listing of all private institutions of postsecondary education in California;
- (b) the development of information concerning size of student body, programs offered, fees charged, and rates of student attrition; and
- (c) an assessment of the operation and effectiveness of Division 21 of the Education Code in assuring the quality of degree, certificate, and other educational programs offered by private institutions of postsecondary education, and in providing the educational consumer with protection from substandard educational enterprises, together with recommendations for necessary and desirable changes in that division.

1. The full text of the statute can be found in Appendix A.

On the basis of its subsequent study, the Commission offers the following conclusions:

1. California's laws regulating private postsecondary education are some of the oldest in the nation and, compared to those of other states, lack certain important consumer-protection provisions. Also, California is one of the few states which funds its postsecondary regulatory agency solely from school licensure fees.
2. Several federal agencies have enacted or proposed consumer-oriented legislation to regulate private postsecondary institutions. Inactivity by state governments, including California, could lead to preemption of current state laws by more stringent federal laws. Compared to the Model Legislation developed by the Education Commission of the States (ECS), California statutes are not comprehensive in their efforts to "provide for the protection, education, and welfare of the citizens of the state, its postsecondary educational institutions, and its students."
3. California has the largest number of private postsecondary institutions in the nation. In terms of student enrollment, the private institutions represent the second largest segment of postsecondary education in the State. In preparing this report, staff members visited numerous private degree-granting and vocational/technical schools, many of which offer excellent educational programs. In seeking to revise the statutes that regulate private institutions, their important contributions to California must be recognized and protected.
4. There are major deficiencies in the administration and enforcement of Division 21. These include unresponsiveness to the needs of the student consumer, unresponsiveness to and nonrepresentation of the needs of the private school segment, an absence of aggressive enforcement of existing regulations, and an absence of centralized authority and responsibility for the supervision and regulation of private institutions. Three factors contribute to this situation: (1) the limited budget of the Bureau of School Approvals for the administration of Division 21, (2) the subsidiary role of the Bureau within the

Department of Education, and (3) the Department of Education's primary concern with elementary and secondary education.

5. The "A-3" provision of Division 21 permits degree-granting institutions to be established in California by applicants who possess \$50,000 of property to be used for educational purposes. The provision contains loopholes which might allow unscrupulous persons to establish and operate schools at the expense of the student, in particular, and the public interest, in general. However, the concept of the "A-3" provision as an open door for innovative alternative schools should be retained since it provides an important vehicle for change in California postsecondary education. As a group, the "A-3" institutions make an important contribution to California postsecondary education. The goal of any change in this provision should be to reduce the possibility of unethical practices by "A-3" schools.
6. Division 21 does not provide adequate protection for the student. The statute does not address such problems as the student attending a school which closes in mid-term; an inequitable minimum refund policy; hard-sell techniques used by commissioned school representatives; the lack of an effective procedure for resolving student complaints; the absence of requirements for the maintenance of student records; and a disclosure requirement for nondegree-granting institutions which requires only a statement of the total financial obligation that a student will incur upon enrollment.
7. Private institutions which are accredited by recognized national or regional agencies are, in practice, considered to be exempt from the provisions of Division 21. The effect of this practice is to delegate the State's responsibility for overseeing the operation of private institutions to independent nongovernmental agencies.

The federal government relies on State or private accrediting agencies to determine the eligibility of educational institutions and programs for federal funds. Since California does not maintain a State accrediting agency, the responsibility for designating which California institutions are eligible for federal funds is delegated to an essentially independent agency, once again.

Given these conclusions, the Commission staff recommends a complete revision of both Division 21 and the process by which it is implemented and administered. This revision should promote the integration of private institutions (particularly vocational/technical schools) into California's postsecondary education system; provide an appropriate regulatory agency that is responsive to the needs of both the producer and consumer of private education; and foster and improve the educational programs and services of private institutions while protecting the citizens of California from fraudulent or substandard operations.

II. BACKGROUND FOR THE STUDY

A. History of Division 21

Private postsecondary education in California is regulated by Division 21 of the California Education Code. Enacted in 1958, the law intended to eliminate the sale and misuse of college degrees.¹ Evidence of the need for such a law was provided in a 1957 legislative report which found in California, "particularly in the Los Angeles area, at least 50 'diploma mills' which sell diplomas, certificates, or degrees . . ."²

In 1963, Division 21 was expanded to include approval and regulation of courses for adults relating to educational, vocational, and professional objectives.³ This expansion was made so that California could comply with federal regulations governing veterans' training.

Many of the provisions of Division 21 are the outgrowth from administrative regulations that were developed for the veteran training program. In fact, the federal law that was enacted for the Korean and Vietnam veterans under Title 38, U.S. Code, has written into law the same provisions that were developed as administrative regulations in California for veterans' training.

These same requirements have since been included as a part of Division 21. The result is that the California law and federal law are identical and schools meeting the requirements under State law can in turn readily qualify for approval for veterans' training.⁴

In 1969, important revisions were made in Division 21 to achieve the Legislature's intent "to encourage privately supported education

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1. Testimony by William Goode, Deputy Attorney General, before the Senate Committee on Education, Interim hearing, October 20, 1969.
 2. "Progress Report by the Subcommittee on Issuance of Degrees of the Assembly Interim Committee on Education," December 1975, Assembly Interim Committee Reports, 1957-59, Vol. X, No. 11, p. 8.
 3. William Goode, op cit, 1969.
 4. Testimony by Herbert E. Summers, Chief of the Bureau of Readjustment Education, before the Senate Committee on Education, Interim hearing, October 20, 1969.

and protect the integrity of degrees and diplomas . . ."⁵ Senate Bill 1244, authored by Senator Albert S. Rodda, made the following changes:

1. The Bureau of School Approvals was directed to publish an annual directory of private schools licensed to operate in California.
2. Degree-granting schools operating under Section 29023(a)(3) were required to file with the Department of Education a "full disclosure" statement describing the institution's objectives and its proposed methods of achieving them, the curriculum, instruction, faculty (with qualifications), physical facilities, administrative personnel, educational records, tuition and fee schedule, scholastic regulations, diplomas and degrees to be conferred, graduation requirements, and financial stability.⁶
3. Limitations were placed on the awarding of honorary degrees.
4. Private institutions were required to maintain, for a minimum of three years, records concerning student enrollment, faculty, degrees granted, and courses of study.

A substantive change in Division 21 was attempted in 1971 by Senate Bill 1574, co-authored by Senator Rodda and then Assemblyman Bill Greene. The bill called for the establishment of an independent Council on Private Postsecondary Educational Institutions, which would administer Division 21. The Council was to be responsible to the Director of Education [Superintendent of Public Instruction] and would have its own staff. The bill was amended five times in committee and ultimately vetoed by the Governor.

During the following legislative session the Council was established as an advisory body to the Superintendent for the administration of

5. Legislative Intent, Section 29001, Division 21 of the Education Code.
6. In 1969, the only requirement for degree-granting schools operating under Section 29023(a)(3) was that the corporation "own an interest in real or personal property or both real and personal property used exclusively for the purpose of education, of a fair market value of not less than fifty-thousand dollars (\$50,000)."

Division 21.⁷ The Council has no administrative responsibility or direct staff support.

In 1974, minor changes were made in the law to: (1) require permits of outside agents selling or soliciting enrollments in residence schools (AB 2917); (2) define conditions under which private schools and employers could jointly advertise in "help wanted" columns (AB 2777); and (3) set forth the specific language to be used in written contracts between private institutions and students (AB 1492).

B. Basic Provisions of Division 21

Division 21, as amended, is comprised of the following major provisions:

1. Legislative Intent

The "Preamble" to Division 21 states that:

It is the intent of this legislature to encourage privately supported education and protect the integrity of degrees and diplomas conferred by privately supported as well as publicly supported education institutions.

2. Definitions

Degree is defined as meaning any designation signifying completion of requirements of an academic, educational, technological, or professional program beyond the secondary school level.

Diploma is any designation other than a degree indicating a person has completed any course of study beyond high school. (Section 29002)

3. Council for Private Postsecondary Educational Institutions

Prior to the Council's formation, there existed a statewide advisory committee to the Superintendent of Public Instruction consisting of 15 members. None were representative of the general public.

7. The Council on Private Postsecondary Educational Institutions was established through AB 2265 (1972). This legislation was co-authored by Senator Rodda and then Assemblyman Bill Greene and sponsored by Assemblymen Stull, Biddle, and Lewis.

The Council was formed in 1973 as an advisory body within the Department of Education consisting of six representatives of the general public, the Director of Education or his designee, and three ex officio members. The Council must meet no fewer than six times a year.

The Council has two specified functions:

- (1) to give advice to the Department of Education on the administration of Division 21, Chapter 4.5 of the Government Code and on any action by the Department of Education to grant, deny, suspend, or withdraw recognition of courses or schools; and
- (2) to review and make recommendations on the budget of the Bureau of School Approvals. (Section 29005)

4. Exemption of Religious Institutions

Religious institutions are exempted from certain provisions of Division 21 if "such course is limited to any diploma or course of instruction given by a bona fide church or religious denomination and such course is limited to instructions in the principles of that church or denomination" (Section 29020)

5. Requirements for Issuing Degrees

An institution is authorized to grant degrees in California if it meets one of three criteria:

- a. full accreditation of the institution, program, or specific course of study by a national or regional accrediting agency recognized by the U.S. Office of Education (approximately 99 institutions);
- b. approval by the Superintendent of Public Instruction that the institution has the facilities, financial resources, administrative capabilities, faculty, and other expertise and resources sufficient for the degree program (approximately 26 institutions); or
- c. possession of real or personal property with a fair market value of at least \$50,000 to be used exclusively for the purpose of education and the submission of a "full disclosure" statement to the county recorder and the Department of Education (approximately 111 institutions). (Section 29023(a)(3))

6. Requirements for Issuing Diplomas

Institutions accredited, approved, or licensed by another State board or agency may issue diplomas in the specific profession, vocation, or occupation controlled by that board or agency. (Section 29023(c)) Institutions with accredited programs or courses may also issue diplomas, provided the institution files required affidavits with the Department of Education. (Section 29023(d))

7. Course Approval

Division 21 enumerates 14 criteria which must be complied with by all institutions offering courses leading to an educational, technological, professional, or vocational objective. Application is made to and approval issued by the Bureau of School Approvals, in compliance with Chapter 5 of the Government Code. The approval process consists of (1) optional temporary approval for a year or more, and (2) final approval which requires annual renewal.

This course-approval process closely parallels that of the Veterans Administration for establishing institutional eligibility for veterans' educational benefits. (Section 29025)

8. Sales Permits

All persons selling correspondence courses must apply for a permit and provide a fraud or misrepresentation surety bond in the amount of \$1,000. (Section 29026)

All off-campus sales agents for courses offered by residence schools leading to an educational, technological, professional, or vocational objective must have a valid permit and post a \$1,000 surety bond. A contract may be voided by the purchaser if the sales representative does not hold a valid permit. (Section 29026.5)

9. Reporting Requirements

All "A-3" schools, those which grant degrees under Section 29023(a)(3), must file annual affidavits containing the corporation's financial statement and other information such as institutional name, addresses, record keeper, and names of principal officers and directors. (Section 29031)

10. Maintenance of Records

All institutions that issue degrees or diplomas must maintain, for a minimum of three years, records of the names and addresses of its students and faculty members, all courses offered, and a list of all degrees and diplomas awarded. (Section 29032)

11. Prohibited Acts and Penalties

Division 21 prohibits certain activities, such as:

- false, deceptive, inaccurate, or misleading statements;
- promises or guarantees of employment;
- inaccurate or misleading advertisements; and
- solicitation of students under "help wanted" columns in newspapers.

There are seven conditions under which joint advertising by private schools and bona fide employers is permissible.

It is a crime to sell, barter, or illegally use a degree or diploma, and to award or receive a degree or diploma without the student having undertaken and completed a course of study.

Such violations are punishable by a \$1,000 fine and/or up to five years in prison. First-time violations of other provisions of Division 21 may result in a fine of up to \$500 and/or up to one year in jail. A second violation becomes a felony punishable by a fine of not less than \$1,000 and/or imprisonment not to exceed five years. (Sections 29035 - 29040 and 29042)

12. Enforcement Provisions

The Department of Education is responsible for reporting possible violations of Division 21 to the Attorney General, who may then conduct investigations and take such actions as is necessary--including the obtaining of injunctive relief. (Sections 29045 and 29046)

C. Comparative Analysis of Division 21

Because the major responsibility for effective regulation of private postsecondary education lies at the State level, it is important to compare California law with that of other states. This comparison can provide a standard by which to judge the adequacy of Division 21.⁸

8. The National Association of State Administrators and Supervisors of Private Schools argues the need for an in-depth study to "review the 50 states and District of Columbia to determine the manner in which the states have established authority for oversight of all postsecondary, trade, technical, business, professional, and correspondence education."

An extensive analysis of the pertinent laws of all 50 states was beyond the scope of this study. Therefore, it was decided to limit the comparison to 16 states,⁹ or one-third of those with statutes governing private postsecondary institutions.¹⁰ The states were selected at random, with the provisions that each geographic region would be represented and that at least four would be states with large populations.

The comparative analysis focused on three areas: (1) consumer protection, (2) administrative structure, and (3) statutory and administrative strengths and weaknesses. The area of consumer protection included complaint-handling procedures, enforcement and investigatory powers, record-preservation requirements, tuition refund policies, tuition-indemnification policies, and full-disclosure requirements. Administrative structure included type of regulatory agency, agency functions, budget size and source, staffing, licensing fees, number of private institutions in the state, and information-gathering techniques. The third area dealt with the perceptions of agency administrators concerning the strengths and weaknesses of the regulatory laws and procedures in their respective states.¹¹

1. Consumer Protection

a. Complaint Procedures

Twelve of the sixteen states reported established procedures for handling consumer complaints. In nearly all states, complaints are referred to the regulatory agency from such sources as the state's Attorney General, Office of Consumer Affairs, and the Better Business Bureau. The agency had responsibility for initial investigation and resolution of complaints. None of the states reported

9. The following states were included in the survey: Colorado, Florida, Georgia, Indiana, Louisiana, Massachusetts, Montana, Nevada, New Mexico, New York, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Wisconsin.

10. Utah and Missouri do not have laws regulating private postsecondary schools.

11. These officials were requested by telephone to participate in the survey, and all were willing to do so. The survey questionnaire was mailed to each official, who was then contacted by telephone two or three weeks later to discuss the answers. A 100 percent response was obtained. For a complete listing of the states and the administrators contacted, see Appendix G.

any problem with the exchange of information among complaint-receiving agencies and thus, has found no need for special efforts to improve the channels of communication.

Ten states relied entirely upon the regulatory agency to resolve consumer complaints. Six states used a combination of agencies, depending on the nature of the complaint and the method of resolution required.

In California, a standard consumer complaint procedure was initiated in July 1975. However, a problem continues to exist in the exchange of information among complaint-receiving agencies.¹²

b. Record Requirements

Eight of the sixteen states require the permanent maintenance of school records by a state agency in the event of school closure. Two states are presently attempting to establish such a provision. California requires that schools maintain records for a minimum of three years.

c. Tuition Refunds

All states except Nevada have tuition refund policies that are more favorable to the student than does California. Five states--Colorado, New Mexico, Oregon, Texas, and Wisconsin--require a pro rata tuition refund based on the percentage of the course completed. Four states--Indiana, Montana, Ohio, and Tennessee--require either a pro rata refund policy or a policy equivalent to that of the appropriate accrediting agency for each type of school.

d. Tuition Indemnification

No state has established a statewide plan for tuition refund indemnity. Fifteen require institutional bonding, varying in amount from \$2,500 to \$25,000. Ten of the fourteen states which had a bonding requirement in 1974 used the procedure to indemnify students that year. California was the only state that did not have a tuition indemnification policy of any kind.

12. For further discussion of this issue, see Section IV.

e. Informational Disclosure

Seven states require institutions to give students or prospective students a school catalog and any related material likely to affect his/her decision to enroll (e.g., information on tuition, refund policy, facilities, faculty qualifications, graduation requirements, etc.). Five states, including California, require only that the student's full financial obligation be included in any contract. Ten states have a contractual "cooling-off" period, varying in length from three to seven days. In California, the cooling-off period is three days.

2. Administrative Structure

a. Agency Functions

In nine of the sixteen states, including California, the same agency has both the responsibility for licensing private postsecondary institutions and for certifying institutional eligibility for the Veterans Administration. Six states assign these two responsibilities to separate agencies. New Mexico assigns the licensing responsibility to its 1202 Planning Commission.

In only two states--California and Nevada--is the same agency responsible for licensing both private degree-granting and nondegree-granting institutions.¹³ (Nevada has only one private degree-granting institution.) Indiana requires state accreditation of all authorized institutions.

b. Budget and Staffing

None of the state agencies surveyed has a budget equal to or greater than that of the Bureau of School Approvals. California's budget for 1975-76 is \$1,055,000, while the next largest is that of Pennsylvania with \$960,000.

In fourteen states, the regulatory agencies are funded from two sources: licensure and permit fees and general fund appropriations. Oregon and California

13. Degree-granting institutions in this context do not include two year, associate vocational degree-granting schools.

fund their agencies solely through licensure revenues. In other states, general fund appropriations vary from as low as 50 percent of the total budget, to as high as 80 percent. Only four of the sixteen chief administrative officers considered their state agencies to be adequately budgeted and staffed.

Three states--New York, Pennsylvania, and Texas--have larger staffs than California for administering the regulations governing private postsecondary institutions, despite the fact that these same states have substantially lower agency budgets.

California has the largest number of private postsecondary institutions in the nation--approximately 1,800. Pennsylvania has the second largest number--709 vocational/technical and correspondence schools.¹⁴

In California's Bureau of School Approvals, the ratio of professional staff to institutions is 1:100. All the states sampled have much lower ratios. For example:

New York	1:26
Pennsylvania	1:20
Wisconsin	1:18
Colorado	1:30

California charges the highest licensure fees for private schools of any state in the nation.

c. Information Gathering

The states surveyed gave a variety of responses regarding the source, frequency, and types of information gathered from the private institutions. All states use licensure applications and school visitations as their primary sources of information. Several states collect only information on the number of institutions and programs offered, which is used to prepare annual directories. Other states

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14. The Pennsylvania figure is inflated because 160 of these schools are out-of-state institutions or correspondence schools. Institutions of this type are not regulated in California and therefore are not included in the State's total.

require more. Ohio, for instance, surveys all schools at the end of the year for information in various categories (enrollment, programs, graduates, etc.) and every school is required by law to respond. This information is included in the agency's annual statement, which is available to the schools and the general public.

d. Enforcement Activities

With the exception of Texas and California, the state regulatory agencies are authorized to investigate consumer complaints or institutional abuses and to obtain the necessary court orders (injunctions or cease and desist orders) for enjoining institutions from future illegal activity or abuses. Texas and California restrict such authority to the State Attorney General.

3. Strengths and Weaknesses

The chief agency administrators were asked to identify the weaknesses and/or strengths in their states' laws and procedures governing private postsecondary education. Except for inadequate funding which was cited by agencies in twelve states, only "insufficient control over the quality of education programs offered" was identified by more than one state as a matter of concern. A state-by-state summary of the most relevant comments is presented in Appendix H.

An unexpected by-product of the survey was the discovery of how recently new or revised legislation had been adopted in the states that were surveyed. Except for California and Pennsylvania, all of the states have laws that were adopted later than 1970. The date of statutory enactment is shown in parenthesis by each state in Appendix H. A second important observation is that many of the states have used the Model Legislation developed by the Education Commission of the States as the basis for their statutes.¹⁵

4. Conclusion

On the basis of this comparative analysis, three generalizations can be made concerning Division 21 and the procedures by which

15. Model Legislation re: Approval of Postsecondary Educational Institutions and Authorization to Grant Degrees, Education Commission of the States, June 1973.

California regulates private postsecondary institutions:

- a. California law does not include several provisions found in most other states. These provisions are generally in the area of consumer protection, and concern such issues as tuition indemnification, full disclosure of information to students, permanent maintenance of records, and a uniform tuition refund policy.
- b. California has a unique method of funding the State agency responsible for regulating private postsecondary institutions. While all other states except Oregon primarily use their general funds to support their regulatory agencies, California relies exclusively on licensing fees. As a consequence, California's probate schools pay the highest such fees in the nation.
- c. California's Division 21 is one of the oldest laws in the nation regulating private institutions. Most states have made significant revisions in their statutes during the past five years.

D. Federal Regulation of Private Postsecondary Education

As a matter of both historical and legal precedence, the responsibility for authorizing the establishment and operation of postsecondary educational institutions rests with the several states. Many argue that for this reason the states have the primary obligation for protecting the rights of the student consumer.¹⁶ Although this responsibility is shared in part with the federal government and educational accrediting agencies,¹⁷ the states must

16. See, for example, the report by the National Advisory Council on Education Professions Development, Gatekeepers in Education: A Report on Institutional Licensing, (Washington, D.C.: Author, 1975).

17. The combined activities of the federal government, the state governments, and the voluntary accrediting agencies on the regulations of private postsecondary education form what is known as the tripartite theory of accountability. See, for example, Respective Roles of Federal Government, State Governments, and Private Accrediting Agencies in the Governance of Postsecondary Education, by William A. Kaplin (The Council on Postsecondary Accreditation, Washington, D.C., July 1975).

take the initiative in establishing minimally uniform policies that will protect their student consumers and also assist the federal government in administering its programs of financial aid to students and institutions.¹⁸

Several federal agencies have enacted or are developing pro-consumer legislation directed at private postsecondary institutions. In 1975, for example, the Department of Health, Education, and Welfare adopted revised eligibility criteria for institutional participation in federal student aid programs. The Federal Trade Commission has proposed stringent regulations governing private vocational schools, with the emphasis on consumer protection. The Federal Interagency Committee on Education, as is discussed later, is also actively involved in this issue.

Failure by the states--individually or collectively--to exercise their responsibilities with regard to private institutions could lead to preemption of current state laws by more stringent, consumer-oriented federal regulations. A review of the nature and scope of federal and federal/state activities provides strong evidence of that possibility.

1. Department of Health, Education, and Welfare

The default rate on the Federally Insured Student Loans (FISL) is a matter of great concern to the Department of Health, Education, and Welfare (HEW). These loans are fully guaranteed by the U.S. Government and are available to students enrolled in any institution accredited by a nationally recognized accrediting agency. Several major scandals in which institutions allegedly have acted as both approver and recipient of student loan funds are being investigated. There is also evidence that the default rate for students in profit-making institutions is four times the rate for students at non-profit institutions.¹⁹

18. National Association of State Administrators and Supervisors of Private Schools, A Brief Study Related to State Regulations of Private Schools (Postsecondary), p. 14.

19. While testifying at a hearing of the Senate Education Subcommittee, chaired by Senator Claiborne Pell, the U.S. Commissioner of Education, Terrel Bell, predicted that almost one-half of the student borrowers enrolled in profit-making schools may default, according to GAO figures. Washington Post, July 19, 1974, p. 3. A similar report was made in the Chronicle of Higher Education, which discussed instances of profiteering through the manipulation of student aid programs. The article estimates that proprietary schools account for about 45 percent of all loans (roughly \$275 million in 1974) and may eventually account for 57 percent of all defaults. Larry A. Van Dyne, "The FISL Factories," The Chronicle of Higher Education, August 4, 1975, p. 4.

In response to this increasingly serious situation, HEW adopted revised eligibility criteria for institutions participating in the FISL Program which require:

- Procedures for record maintenance and reports.
- A fair and equitable tuition-refund policy.
- Disclosure of information to students concerning the institution and its programs and facilities. For vocational, career, or trade fields, the information must include starting salaries and percentages of past students in each particular course of study who are now employed.
- Detailed standards for maintaining institutional eligibility, and procedures for limitation, suspension, or termination of federal funds.²⁰

2. Federal Trade Commission

As a result of its investigation of profit-making vocational schools, the Federal Trade Commission (FTC) recently concluded hearings on a proposed set of binding rules and regulations, which, if adopted in the proposed form, will require all profit-making vocational schools to:

- Provide factual documentation for all claims of earnings and/or employment of graduates.
- Provide prospective students with the school's drop-out rates.
- Provide students with job placement rates of graduates if placement claims are made.
- Maintain a ten-day contractual "cooling-off/positive reaffirmation" period.
- Provide full pro rata tuition refunds.²¹

20. Department of Health, Education, and Welfare, Office of Education, "Guaranteed Student Loan Program," 40 Federal Register (35) 7586-7599, (Washington, D.C., U.S. Printing Office) February 20, 1975.

21. U.S. Federal Trade Commission, "Proprietary, Vocational, and Home Study Schools," 40 Federal Register 21048 (Washington, D.C., U.S. Printing Office) May 15, 1975.

3. Proposed Federal Legislation

The Postsecondary Education Consumer Protection Act of 1975 was introduced by California Congressmen Alphonzo Bell and the late Jerry Pettis²² in response to the failure of Riverside University. None of the University's students received any tuition refund and many were left holding federal loans for which they were personally responsible.

The proposed legislation, which is still in committee, requires that eligibility for federal program funds be conditioned on such institutional practices as providing job placement data, statements of objectives, and complete catalog information; fair and equitable refund policies, including a 30-day refund period; and surety bonding.

The Act closes with the following statement:

It is the sense of the Congress that the several states should enact and enforce laws for the approval or accreditation of postsecondary educational institutions and authorization to grant degrees. Such laws should establish standards for approving entities that will insure proper business procedure within the industry and could utilize model legislation plans and the wealth of recent study in drafting statutes for this purpose.²³

4. Federal Interagency Committee on Education

In 1972, the Federal Interagency Committee on Education (FICE) formed a Subcommittee of Educational Consumer Protection. The Subcommittee is chaired by the Director of Accreditation and Institutional Eligibility of the U.S. Office of Education and its membership represents 16 federal agencies. The Subcommittee's major accomplishments thus far have been the funding of the ECS (Education Commission of the States) Task Force to develop Model State Legislation for private postsecondary institutions and the co-sponsorship of two National Invitational Conferences on Education Consumer Protection in 1974.

22. Alphonzo Bell and Jerry Pettis, Postsecondary Education Consumer Protection Act of 1975, H.R. 2786, 94th Congress, 1st Session, (Washington, D.C., December 16, 1974).

23. Ibid., p. 13.

Noting that exchange of information and coordination of activities among the various federal agencies involved in postsecondary education and the states is inadequate, FICE has recommended six major changes in policy:

1. Students should be given greater protection through clear statements of student rights on federal aid applications, better mechanisms for the redress of complaints, and elimination of the holder-in-due-course doctrine.²⁴
2. A Federal Student Tuition Insurance Corporation should be formed to repay student tuition if an institution closes.
3. A central consumer complaint office should be established.
4. Institutions should make full disclosure of their student dropout rates.
5. Pro rata tuition refund policies for occupational programs should be a requisite to an institution's eligibility for federal funds.
6. State educational agencies and private associations which have direct responsibility for accrediting, approving, licensing, and/or certifying educational institutions, should do so with consumer protection in mind. ECS and the National Association of State Administrators and Supervisors of Private Schools are encouraged to help states which do not have strong pro-consumer legislation.²⁵

24. The "holder-in-due-course doctrine" applies to security interests where a lender borrows from a primary lender and the lender in effect "sells" the contract (or assigns the benefits) to a third party. This third-party assignee may enforce the contract against the primary lender should he or she default. For example, a student (lender) contracts with a bank (lender) for an educational loan. The bank assigns its contract right to collect the money, according to the terms of the loan, to a collection agency (third-party assignee). Should the student default on the loan repayment to the bank, the collection agency has the right to go against the student for the sum that is due and owing. The collection agency is called the "holder in due course."

25. Federal Interagency Committee on Education, Toward a Federal Strategy for Protection of the Consumer of Education, (Washington, D.C.: Author, July 1975).

E. Education Commission of the States

"A logical step for controlling questionable, unethical or fraudulent practices would be the enactment of statutes or amendments of existing state laws for this purpose on certain guidelines or models."²⁶ In order to develop guidelines for this purpose, the Education Commission of the States (ECS) established a Task Force to consider regulatory problems in postsecondary education and to develop Model State Legislation. The Task Force was comprised of representatives from ECS, state and federal governments, state educational licensing agencies, and public and private institutions.

The Model State Legislation covers seven major areas: (1) minimum standards of quality of education, ethical and business practices, health, safety, and fiscal responsibility; (2) prohibitions against the use of false and misleading credentials; (3) regulation of the use of academic terminology in naming institutions; (4) prohibitions of misleading advertising; (5) preservation of academic records; (6) remedies to the public and state to assure that the statute is implemented effectively; and (7) the posting of sufficient bond at the time of school licensure.²⁷

Subsequently, ECS held two conferences in 1974 on consumer protection. In the June conference, ten major recommendations were made, the most notable dealing with:

- Refund and restitution policies for tuition and fees.
- Minimum standards for advertising and recruitment.
- Establishment of a Federal Student Tuition Insurance Corporation.
- Development of a clearinghouse of information.
- Disclosure of placement information substantiated by school records.²⁸

26. Education Commission of the States, Model State Legislation (Denver: Author, 1973), p. vi.

27. Ibid.

28. A copy of all the major recommendations is included in Appendix L.

A comparison of Division 21 of California's Education Code with the Model State Legislation reveals several important differences, which are attributable primarily to the differing purpose or intent of the two statutes.²⁹ The purpose of the ECS model is "to provide for the protection, education, and welfare of the citizens of the state, its postsecondary educational institutions, and its students." Division 21 seeks to "protect the integrity of degrees and diplomas conferred by privately supported as well as publicly supported educational institutions." Another important difference between the two statutes is their time of development--Division 21 was implemented in 1958, while the ECS model was issued 15 years later, in 1973. The ECS model offers many useful suggestions which can be incorporated into a revision and improvement of Division 21.

29. A detailed comparison of Division 21 and the ECS model is provided in Appendix K.

III. PRIVATE POSTSECONDARY INSTITUTIONS IN CALIFORNIA

In describing California's system of private postsecondary education, it is useful to distinguish between institutions which grant degrees and those who do not. While information concerning both groups of institutions must be approximated in many cases, particularly with respect to the nondegree-granting group, it is important to provide a descriptive survey of the over 1800 institutions regulated by Division 21.

A. Degree-Granting Institutions

There are 236 independent degree-granting colleges and universities in California.¹ Under the provisions of Division 21, degree-granting institutions fall into the following three categories:²

1. A-1 Institutions: These institutions are authorized to grant degrees by virtue of their being accredited by a nationally recognized accrediting agency or organization.³ There are 99 California colleges and universities in the "A-1" group.
2. A-2 Institutions: These institutions are authorized by a formal approval process conducted by the Bureau of School Approvals. There are 26 institutions in the "A-2" group.
3. A-3 Institutions: These institutions are authorized on the basis of their ownership of \$50,000 in real and personal property devoted exclusively to educational purposes, and through submission of a "full disclosure" statement.⁴

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1. As of November 1975, based upon a combination of records maintained by the Bureau of School Approvals and the Commission's Information Systems Division, there were 236 independent degree-granting institutions authorized to operate in California. This number changes almost monthly.
 2. The A-1 group derives its name for the fact that these institutions are authorized under Section 29023(a)(1) of the Education Code. The A-2 group is authorized under Section 29023(a)(2), and the A-3 group under Section 29023(a)(3).
 3. See Appendix D for a complete listing of the nationally recognized accrediting agencies.
 4. For more discussion of this issue, see Chapter V, DEGREE-GRANTING INSTITUTIONS--THE "A-3 PROBLEM."

In addition, there are approximately fifteen which have filed under either the A-1 or A-3 Sections as eligible to grant degrees but which reported in Fall 1975 that they had not exercised that authority.⁵

1. A-1 Institutions

Within the A-1 category, 84 of the 99 schools are institutionally accredited by the Western Association of Schools and Colleges (WASC), which is the recognized regional accrediting agency for California. Of the remaining institutions, many are institutionally accredited by a religious accrediting agency such as the Association of Theological Schools or the Association of American Bible Colleges. Others have accreditation for specific programs from a recognized specialized accrediting agency such as the American Bar Association or the Association of Independent Colleges and Schools. Fifty-seven of the WASC-accredited schools belong to the Association of Independent California Colleges and Universities (AICCU) with headquarters in Los Angeles. Seven of the A-1 schools (7%) are organized as profit-making, and thirty-four are affiliated with religious organizations.⁶

2. A-2 Institutions

The A-2 group has the smallest number of degree-granting institutions--26. One of these was recently accredited by WASC; one is accredited by the National Association of Trade and Technical Schools; and two are accredited by the Committee of Bar Examiners of the State of California. However, accreditation by this Committee is not recognized by the U. S. Commissioner of Education, and therefore does not qualify the institutions for A-1 status. Of the 26 A-2 schools, 9 (35%) are organized as profit-making, and 4 are affiliated with religious organizations.⁷

3. A-3 Institutions

Of the 111 schools in the A-3 category, 9 are accredited by a recognized specialized accrediting agency, and 3 by the Committee of Bar Examiners. Twenty-two (20%) are organized as profit-making, and 27 are affiliated with religious organizations.⁸

5. This information is from the Bureau of School Approvals' files. It is not known why these schools have filed for degree-granting authority.
6. As reported on Institutional Characteristics of Colleges and Universities: 1975-1976, National Center for Education Statistics, Department of Health, Education, and Welfare, coordinated by the Commission's Information Systems Division.
7. Ibid.
8. Ibid.

4. Law Schools

There are 52 private law schools in California. The State's four public law schools are located on campuses of the University of California at Davis, Berkeley, Los Angeles, and San Francisco (Hastings College of Law). California has 25 percent of the 225 law schools nationwide.⁹ Of the 57 law schools in California, 15 have been accredited by the American Bar Association, and an additional 10 have been accredited by the State's Committee of Bar Examiners. California has 32 of the 50 unaccredited law schools nationwide. Twenty-one of the private California law schools are affiliated with liberal arts or business colleges, while the remaining 31 are unaffiliated. Thirty-two of the law schools grant degrees under the A-3 provision, four under the A-2 provision, and sixteen under the A-1 provision.¹⁰

5. Enrollments

Total enrollment (headcount) in the private colleges and universities in 1975-76 is estimated to be 185,058. This includes an estimated 8,509 students enrolled in the 54 A-2 and A-3 schools which did not submit the HEGIS report, Opening Fall Enrollment: 1975.¹¹

Institutions in the A-1 group enroll 85 percent of the students in the independent sector, while the A-2 schools account for only 2 percent on the enrollment. The smallest private institution enrolled 5 students in 1974-75, the largest over 25,000. Proportionately, almost twice as many first-professional students enrolled in A-3 schools as in A-1 schools. This distribution is probably

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9. Nationwide totals supplied by the American Bar Association.
 10. For a complete listing of California law schools, see Appendix C.
 11. Opening Fall Enrollment: 1975; Higher Education General Information Survey (HEGIS); National Center for Education Statistics, Department of Health, Education, and Welfare; coordinated by the Commission's Information Systems Division.

This 8,509 figure represents the sum of estimates of 49 A-2 and A-3 schools for 1974-1975 total enrollment. (As reported on Institutional Characteristics: 1975-1976; National Center for Education Statistics.) The estimate figure was felt to be an acceptable projection for 1975-1976 enrollment in the nonreporting schools for the purposes of comparison. There are no enrollment data for five of the A-3 schools: California Western University, Landmark Baptist Schools, Los Angeles Psycho-Social Center, San Francisco College of Judaic Studies, and Ocean University.

due to the large number of law schools in the A-3 group. Although it has been said that most A-3 schools are part-time evening colleges, a similar percentage of students enrolled part time in the A-1 group.¹² Enrollment by sex was relatively evenly distributed in the A-3 schools, with 43 percent women and 57 percent men; while the A-1 schools enrolled 38 percent women and 62 percent men.¹³ The A-2 schools reported 23 percent women and 77 percent men.¹⁴ Enrollments by ethnic group are currently not available. The tables which follow provide further breakdown of enrollments, as well as comparisons with public segments of postsecondary education.

6. Degrees Awarded

The independent institutions awarded 38,490 degrees between July 1, 1974 and June 30, 1975.¹⁵ The largest percentage (47%) was at the baccalaureate level, with the A-1 schools contributing 95 percent of the total. Thirty-three percent of the degrees awarded were at the master's level, with the A-1 schools accounting for 97 percent. Of the professional degrees awarded, 69 percent were in the field of law, with the A-1 schools awarding 83 percent of the total. Complete breakdowns of degrees awarded by level of degree and by institutional group are shown in Table 5.

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12. Part-time students accounted for 29 percent of the enrollment in the A-3 institutions (using only those institutions reporting Opening Fall Enrollment: 1975), and 34 percent in the A-1 schools.
 13. Using only those schools reporting Opening Fall Enrollment: 1975.
 14. Ibid.
 15. Higher Education General Information Survey (HEGIS); National Center for Education Statistics, Department of Health, Education, and Welfare; coordinated by the Commission's Information Systems Division.

TABLE 1

TOTAL ENROLLMENT FOR CREDIT IN CALIFORNIA DEGREE-GRANTING INSTITUTIONS

Fall, 1975

					Independent Institutions	
					156,863	A-1,
					8,404	A-2
					11,282	A-3
					176,549	Sub-Total
	Public Institutions				8,509	Estimate ²
	UC	CSUC	CCC	Other Public ¹		TOTAL
Total Enrollment	181,785	333,735	1,084,000	1,556	185,058	1,786,134
Percentage of Statewide Enrollment by Segment	10%	19%	61%	less than 1%	10%	100%
Number of Schools	10	19	102	3	236	370
Percentage of Schools	3%	5%	27%	1%	64%	100%

Primary Source: Opening Fall Enrollment: 1975; Higher Education General Information Survey (HEGIS); National Center for Education Statistics; Dept. of Health, Education, and Welfare; coordinated by CPEC information systems.

Figures for the Community Colleges were obtained from Opening Fall Enrollment (HEGIS), with adjustments from California Community College forms (CCAF-130 and 131 when necessary).

¹These institutions are California Maritime Academy, U.S. Naval Postgraduate School, and Otis Art Institute of Los Angeles County.

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²Estimate: this figure represents the sum of estimates of 49 A-2 and A-3 schools which did not report Opening Fall Enrollment. From Institutional Characteristics: 1975-76 (HEGIS)

TABLE 2

1975 Opening Fall Enrollment (Headcount)

A-1 Institutions

All Students Enrolled (resident and extension)	Full-time		Part-time		TOTAL
	Women	Men	Women	Men	
Lower Division Undergraduates	19,311	21,066	2,095	3,792	46,264
Upper Division Undergraduates	13,457	18,214	3,156	5,708	40,535
Total Undergraduates	32,768	39,280	5,251	9,500	86,799
Unclassified Students	584	1,130	3,324	2,671	7,709
First-Professional Students	2,817	10,910	802	2,356	16,885
Graduate Students	5,591	11,264	8,355	20,260	45,470
GRAND TOTAL	41,760	62,584	17,732	34,787	156,863

99% of institutions reporting (San Fernando Valley College of Law not reporting)

Source: Opening Fall Enrollment: 1975; Higher Education General Information Survey (HEGIS), National Center for Education Statistics, U.S. Department of Health, Education, and Welfare; coordinated by California Postsecondary Education Commission Information Systems.

Total of 99 A-1 Institutions as of Fall, 1975.

1975-76 Total Enrollment (Headcount)

TABLE 3

A-2 Institutions

All Students Enrolled (resident and extension)	Full-Time		Part-Time		TOTAL
	Women	Men	Women	Men	
Lower Division Undergraduates	544	1,015	93	382	2,034
Upper Division Undergraduates	176	832	81	281	1,370
Total Undergraduates	720	1,847	174	663	3,404
Unclassified Students	73	127	71	30	301
First-Professional Students	154	1,053	393	1,747	3,347
Graduate Students	356	983	3	10	1,352
Totals: Reporting 1975 Opening Fall Enrollment ¹	1,303	4,010	641	2,450	8,404
Remaining Schools Estimating 1974-1975 Total Enrollment ²					340
GRAND TOTAL					8,744

1. 21 schools or 87% reporting Opening Fall Enrollment: 1975; Higher Education General Information Survey (HEGIS), National Center for Education Statistics, U.S. Department of Health, Education, and Welfare; coordinated by California Postsecondary Education Commission Information Systems.

2. 3 schools or 13% estimating Total Enrollment 1974-75 on Institutional Characteristics: 1975-76; HEGIS, NCES, HEW; coordinated by CPEC Information Systems.

As of Fall, 1975, there were 26 A-2 Institutions. Two schools did not submit enrollment data.

1975-1976 Total Enrollment (Headcount)

TABLE 4

A-3 Institutions

All Students Enrolled (resident and extension)	Full-Time		Part-Time		TOTAL
	Women	Men	Women	Men	
Lower Division Undergraduates	1,558	1,419	882	789	4,648
Upper Division Undergraduates	469	729	164	255	1,617
Total Undergraduates	2,027	2,148	1,046	1,044	6,265
Unclassified Students	101	142	580	483	1,306
First-Professional Students	317	931	296	869	2,413
Graduate Students	388	624	101	185	1,298
Totals: Reporting 1975 Opening Fall Enrollment ¹	2,833	3,845	2,023	2,581	11,282
Schools Estimating 1974- 1975 Total Enrollment ²					8,169
GRAND TOTAL					19,451

1. 60 schools or 54% reporting Opening Fall Enrollment: 1975; Higher Education General Information Survey (HEGIS), National Center for Education Statistics, U.S. Department of Health, Education, and Welfare; coordinated by California Postsecondary Education Commission Information Systems.
2. 46 schools or 41% estimating Total Enrollment 1974-1975 on Institutional Characteristics of Colleges and Universities: 1975-76; HEGIS, NCES, HEW; coordinated by CPEC Information Systems.

3 schools or 5%: no enrollment information. These schools are: California Western University, Landmark Baptist Schools, Los Angeles Psycho-Social Center, San Francisco College of Judaic Studies, Ocean University.

Total of 111 A-3 Institutions as of Fall, 1975.

TABLE 5

Degrees Conferred July 1, 1974 to June 30, 1975

Independent Degree-Granting Institutions

	A-1 INSTITUTIONS	A-2 INSTITUTIONS	A-3 INSTITUTIONS	TOTAL
Associate	1,261	147	134	1,542
Baccalaureate	17,352	387	523	18,262
Master's	12,322	218	114	12,654
Doctorate	1,458	79	175	1,712
Professional Total	3,664	409	247	4,320
Law	2,499	274	222	2,995
Theology	308	1	23	332
Medicine	311	0	0	311
Optometry	53	0	0	58
Other	488	134	2	624
of Schools Reporting	95	21	54	170

source: Higher Education General Information Survey: 1975, National Center for Education Statistics

B. Nondegree-Granting Institutions

The information in this section is the result of one of the first concerted attempts at a statewide description of private nondegree-granting institutions in California. The data was collected through the "Postsecondary Career School Survey: 1975," a product of the National Center for Education Statistics (NCES) of the Department of Health, Education, and Welfare, coordinated by the Commission's Information Systems Division. Files at the Bureau of School Approvals were used in summer 1975 to develop a mailing list for this survey. Supplemental addresses were supplied by NCES from responses to their past surveys.

In December 1975, Commission staff mailed survey questionnaires to approximately 1800 private vocational schools. As the project progressed, it became apparent that the Bureau's files were not well organized or current. Many schools appeared under several names, without cross-reference, and many of the addresses were over five years old. Commission staff found that 340 of the schools had closed. Other schools have moved to another city, changed their names, or merged with other schools or chains of schools.

Because of these factors, it was difficult to obtain a high response rate through a mail survey. Nevertheless, as of May 1976, 1095 resident vocational schools had returned the questionnaire. Assuming an estimated total of 1500 resident vocational schools, this represents a 73 percent response rate. These schools enrolled 165,963 students in 1974-75. Although it has been estimated that 500,000 students enroll in California vocational schools yearly, this estimate now appears to be high. A more accurate figure would be 200,000 students.

Correspondence schools, both in California and out-of-state, were surveyed through a special version of the Postsecondary Career School Survey designed for schools offering home-study courses. Out-of-state correspondence schools were asked to report only those students residing in California. When exact enrollments were unavailable, estimates for California were to be made. As of March 1976, 45 correspondence schools had returned the questionnaire. Thirty-three of these schools are located in California; twelve are based in other states. These schools reported a total of 90,810 California students enrolled during academic year 1974-1975.

Responses from certain types of schools were determined to be inappropriate for the purposes of this study, and such schools have been excluded from the figures presented below.¹⁶ Enrollments in

16. For reporting purposes, the responding schools have been separated into groups by type of school. It was felt that grouping enrollment data by course or program would provide (footnote continued on next page)

courses designed to prepare students for particular licensing examinations--the California Bar Examination, the Architectural Examination, the Certified Public Accountant Examination, and the Contractors Examination--have been excluded. These courses are normally taken after a prescribed amount of formal training, and usually consist of an intensive review of course material. Such courses as Real Estate Salesman, which are training and review for an examination simultaneously, have been included. Enrollments in schools offering courses with nonvocational objectives (e.g., self-improvement and automobile driver courses) were excluded.

Statistics on completion, placement, and dropout rates are extremely complicated and require further definition before they will be useful. Many students enroll for an entire program, but obtain employment after finishing only part of the coursework. These students cannot accurately be described as dropouts. Many complete the coursework, but find a job in another field for which

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16. too many variables for an adequate description of the "industry." Since the focus of this study is on the institutions, and not the programs, enrollment information has been organized by type of school. The method is convenient, but does present some problems. For example, a medical transcriber course, when offered by a paramedical school, would be reported under Health Careers (see description of categories, attached). When the program is offered by a business school, the numbers appear under Business/Clerical. Similarly, a keypunch operator program offered by a business school would appear in Business/Clerical. If offered by a computer school, the figures would appear under Computer-Related. Information about enrollments in Health Career programs has been separated into Hospital Schools and Private Paramedical Schools. These schools are authorized to offer programs under different sections of Division 21.

Descriptions of the categories used for identifying the type of school in the enrollment charts which follow appear in Appendix E. The categories were developed subsequent to the receipt of the majority of the completed questionnaires, and represent the range of courses available to California's vocational students. It was felt that this method would prevent blurring of information which can occur when a limited number of categories is used. Schools were not forced into inappropriate categories, yet an acceptable level of aggregation was maintained.

they were not trained. These students cannot accurately be described as nonplacements, because the training they received may have contributed in some way to their placement.

Judging from the response to the Postsecondary Career School Survey, many private vocational and technical schools could not presently comply with the proposed FTC regulations regarding full disclosure of information to students.¹⁹ Most schools could not report enrollments by sex and ethnic group, and some could only estimate their 1974-1975 enrollment. It will be an expensive and time-consuming task for the schools to develop detailed accounting systems to provide information on completion, placement, and dropout rates and on starting salaries to prospective students.

Enrollments were not reported in about 7 percent of the questionnaires returned to the Commission. However, these schools have been considered in estimating the average number of students enrolled per school by type of school in 1974-75. To obtain this average, total enrollment per school was divided by the number of schools of that type which reported enrollments. The enrollment data are provided in the following charts.²⁰

19. These proposed regulations would require private schools to make a full disclosure statement to students, including the following:

- a. total enrollments
- b. total number of students who failed to complete the course of study
- c. total number of students who obtained employment in the field for which they were trained
- d. starting salary ranges of students who obtained employment in the field for which they were trained

20. See Appendix E for a description of categories used for "Type of School" in considering the enrollment in private vocational/technical schools.

TABLE 6
ENROLLMENT IN INDEPENDENT CALIFORNIA VOCATION/TECHNICAL SCHOOLS BY TYPE OF SCHOOL
(Students ever enrolled during academic year 1974-1975)

<u>TYPE OF SCHOOL</u>	<u>NO. OF SCHOOLS</u>	<u>NO. OF SCHOOLS NOT REPORTING ENROLLMENT</u>	<u>AVERAGE 1974-75 ENROLLMENT</u>	<u>RANGE OF 1974-75 ENROLLMENT</u>	<u>TOTAL ENROLLMENT</u>
COSMETOLOGY	225	5	93	2--900	20,394
FLIGHT	178	17	91	2--2200	14,678
BUSINESS/CLERICAL	110	7	211	38--760	21,709
HEALTH CAREERS	72	3	214	4--891	14,782
HOSPITAL SCHOOLS	43	2	58	2--1029	2,389
REAL ESTATE	79	8	432	14--1600	30,702
MASSAGE	37	1	35	6--150	1,247
GENERAL VOCATIONAL	36	7	475	2--784	13,783
MODELING	49	5	168	17--1060	7,379
THE ARTS	41	3	234	6--3440	8,904
AUTO/APPLIANCE REPAIR	32	2	180	8--2051	5,386
BARBERING	25	1	39	17--86	943
TRAVEL CAREERS	17	0	95	7--247	1,617
BARTENDING	17	1	89	50--712	1,418
DOG and CAT GROOMING	16	2	29	6--79	410
DRIVING	15	1	306	20--1647	4,280
ELECTRONICS	14	1	254	33--600	3,302

<u>TYPE OF SCHOOL</u>	<u>NO. OF SCHOOLS</u>	<u>NO. OF SCHOOLS NOT REPORTING ENROLLMENT</u>	<u>AVERAGE 1974-75 ENROLLMENT</u>	<u>RANGE OF 1974-75 ENROLLMENT</u>	<u>TOTAL ENROLLMENT</u>
BOOKKEEPING	14	4	183	20--1000	1,832
RELIGIOUS TRAINING	11	0	127	6--834	1,392
COMPUTER RELATED	12	1	227	21--629	2,498
COMMUNICATIONS	8	1	233	95--504	1,633
UPHOLSTERY	7	0	250	11--1000	1,748
ACADEMIC	7	0	62	14--146 ^x	431
SPECIALTY	10	1	101	11--500	912
HOTEL/MOTEL MANAGEMENT	7	0	95	23--177	667
NAVIGATION	4	0	197	59--407	786
ENGINEERING/ DRAFTING	4	0	103	22--140	412
LAW ENFORCEMENT	5	2	110	4--250	329
TOTALS	1,095	75	163		165,963

7% not reporting enrollment

73% response based on estimate of 1500 schools

SOURCE: POSTSECONDARY CAREER SCHOOL SURVEY: 1975
NATIONAL CENTER FOR EDUCATION STATISTICS
DEPT. OF HEALTH, EDUCATION, AND WELFARE
COORDINATED BY C.P.E.C. INFORMATION SYSTEMS

JUNE, 1976

TABLE 7

ENROLLMENT IN CALIFORNIA CORRESPONDENCE SCHOOLS BY TYPE OF SCHOOL
(Students ever enrolled during 1974-1975 academic year)

<u>TYPE</u>	<u>NO. OF SCHOOLS</u>	<u>NO. OF SCHOOLS NOT REPORTING ENROLLMENT</u>	<u>TOTAL ENROLLMENT</u>
LAW ENFORCEMENT	8	0	12,505
GENERAL VOCATIONAL	4	1	29,014
COMMUNICATION	3	0	1,503
UPHOLSTERY	3	0	23,428
HOTEL/HOTEL MANAGEMENT	3	0	336
BOOKKEEPING	3	0	725
DRIVING	2	0	2,471
RELIGIOUS TRAINING	1	0	240
REAL ESTATE	1	0	98
BUSINESS/CLERICAL	1	0	42
THE ARTS	1	0	6,000
ENGINEERING	2	0	831
SPECIALTY	1	0	312
TOTALS	33	1	77,505

SOURCE: POSTSECONDARY CAREER SCHOOLS SURVEY, NATIONAL CENTER FOR EDUCATION STATISTICS: 1975

COORDINATED BY CPEC INFORMATION SYSTEMS

TABLE 8

CALIFORNIA ENROLLMENT IN OUT-OF-STATE CORRESPONDENCE SCHOOLS BY TYPE OF SCHOOL
 (Students ever enrolled during 1974-1975 academic year)

<u>TYPE</u>	<u>NO. OF SCHOOLS</u>	<u>NO. OF SCHOOLS NOT REPORTING ENROLLMENT</u>	<u>TOTAL ENROLLMENT</u>
COMPUTER RELATED	3	0	772
AUTO/APPLIANCE REPAIR	3	0	4833
BOOKKEEPING	2	0	105
ENGINEERING	1	0	4850
TRAVEL CAREERS	1	0	1243
HOTEL/MOTEL MANAGEMENT	1	1	0
UNKNOWN	1	1	0
ELECTRONICS	1	0	1436
THE ARTS	1	0	66
TOTALS	12	2	13,305

SOURCE: POSTSECONDARY CAREER SCHOOL SURVEY, NATIONAL CENTER FOR EDUCATION STATISTICS: 1975

COORDINATED BY CPEC INFORMATION SYSTEMS

IV. THE ADMINISTRATION AND ENFORCEMENT OF DIVISION 21

Primary responsibility for administering and enforcing Division 21 rests with the Superintendent of Public Instruction and the Attorney General.¹ The basic purpose of this legislation is to preserve and encourage the vitality of private postsecondary education, while assuring the student consumer that the academic program meets a standard of quality.² The following discussion assesses the effectiveness with which Division 21 has been administered and enforced in seeking to achieve this twofold purpose.

A. Background

The State Department of Education has been responsible for the administration of Division 21 since 1958. The Superintendent of Public Instruction has delegated this responsibility to the Bureau of School Approvals, which was originally established to administer and supervise educational courses for veterans.³ The Bureau is now designated as the State Approving Agency of the Federal Veterans Administration.

1. Section 29045(a), Division 21, Education Code.

2. The initial provision of Division 21 states that:

. . .it is the intent of this Legislature to encourage privately supported education and protect the integrity of degrees and diplomas conferred by privately supported as well as publicly supported educational institutions.

It is also the intent of the Legislature to encourage the recognition by tax-supported institutions of work completed and degrees and diplomas issued by privately supported institutions, to the end that students may have equal opportunities for equal accomplishment and ability.

In the present period the need for educational services for the youth is so great that it cannot be met by tax-supported institutions alone. The contribution of privately supported educational institutions to the preservation of our liberties is essential. These objectives can best be achieved by protecting the integrity of degrees and diplomas issued by such institutions. (Section 29001)

3. The Bureau's predecessor, the Bureau of Readjustment Education, was established to administer the Federal Veteran's Readjustment Education Assistance Act in California after World War II, and subsequently the extended educational benefits for Korean War veterans.

The Department of Education also was authorized to make necessary investigations to assure institutional compliance with the provisions of Division 21. This authorization led to the recommendation that the "State Department of Education should be instructed to add investigative personnel to their staff to find diploma mill operators."⁴

In 1959, the law was amended to make the Attorney General responsible for any necessary investigations of suspected violations of the Code. A formal opinion published by the Attorney General elaborated further: "While the precise division of duties between the Superintendent of Public Instruction and the Attorney General is not spelled out in this section [Section 29045 of Division 21], it seems clear that the Attorney General is to have the primary investigatory responsibility under this article."⁵ The Attorney General is also empowered to take necessary legal actions, including injunctive relief to enforce the various provisions of Division 21.

B. Current Administration and Enforcement

1. Bureau of School Approvals

The Bureau of School Approvals has several clearly specified responsibilities for the administration and enforcement of Division 21:

- Receiving and processing applications from institutions seeking authorization to operate.
- Evaluating and approving, or disapproving, courses with an educational, technological, professional, or vocational objective in nondegree-granting institutions. (Section 29025)
- Evaluating and approving, or denying, institutional requests to grant degrees. (Section 29023(a)(2))
- Processing permits for correspondence and residence school salespersons.
- Reporting violations of Division 21 to the Attorney General.

4. "Progress Report by the Subcommittee on Issuance of Degrees of the Subcommittee on Education," December 1957, Assembly Interim Committee Reports, 1957-59, Vol. X, No. 11, p. 9.
5. Opinion of the Attorney General, Vol. 34, No. 58-203, August 31, 1959, p. 107.

- Receiving and filing various affidavits and statements from institutions accredited by regional or national accrediting agencies, institutions operating under the A-3 provision, and/or institutions regulated by another state board or agency under the Business and Professions Code.⁶
- Publishing an annual directory of private postsecondary institutions authorized to operate in California.

These responsibilities follow directly from the Education Code, which states that the regulatory provisions are intended "to encourage privately supported education and protect the integrity of degrees and diplomas."

The Bureau's operating budget is derived from two sources: (1) licensure fees paid by Division 21 schools, and (2) funds from the Veterans Administration for VA-approval work. The Bureau receives no support from the State's General Fund. To perform its dual responsibilities, the Bureau had the following budget and staffing for 1975-76.⁷

<u>BUDGET</u>		<u>STAFF</u>	
\$ 317,000	Division 21 Activities (Derived 100% from licensure fees)	VA Professional	Division 21
		13	5
		Clerical	3
738,000	VA Approval		
\$1,055,000	TOTAL		

There is considerable overlapping in the responsibilities for VA approval and administration of Division 21. While staff members paid from federal funds are theoretically responsible only for administering VA regulations, the structure of Division 21 has made it possible for

6. This act of receiving and filing affidavits is described as being strictly a "ministerial act" giving the Bureau no discretion over the exercise of this duty. Ibid., p. 105.
7. Information obtained from O. D. Russell, Chief, Division of Financial Resources and Distribution of Aid, State Department of Education; and Herbert Summers, former chief of the Bureau of School Approvals. For a comparison with budgets and staffing in New York and Pennsylvania, see Chart I.

staff to perform parallel Division 21 functions.⁸ Therefore, when a field representative visits an institution to determine VA course eligibility, theoretically a Division 21 inspection can also be performed at no cost to the State.⁹

Given the number of private institutions in California, the Bureau's field representatives carry heavy workloads in administering Division 21. For example, one representative is currently responsible for overseeing the following numbers and types of institutions:¹⁰

Institutions of Higher Learning (VA approved)	21
Vocational/Technical (VA approved)	31
Flight Schools (VA approved)	15
Miscellaneous (VA approved)	25
Division 21 Schools (Non-VA approved)	<u>53</u>
Total	145

Limitations of time and manpower raise serious questions as to the ability of the Bureau to maintain high standards in its inspection and evaluation of the many private institutions in the State.¹¹

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8. Section 29025 of Division 21 was modeled directly on the VA course-approval requirements; in effect, when a course or a school qualifies for VA approval, it also meets the requirements of Section 29025.
 9. The Bureau's responsibility for veterans' course approval is not limited to private institutions. Numerous public institutions must also be inspected.
 10. Provided by Cliff O'Connell, Field Representative, Bureau of School Approvals.
 11. In recent correspondence concerning the effectiveness of the Bureau as an approval agency for the Veterans Administration, the Director of the VA's Regional Office stated that "we are aware that some schools have not been visited in two or more years and must conclude that this situation occurs due to an oversight or lack of staff." Letter from Mr. R. F. Welch, Director, Regional Office, Veterans Administration, to Mr. Bruce D. Hamlett, dated April 26, 1976.

2. Attorney General

In addition to the investigatory function discussed earlier, the Office of the Attorney General has identified five major areas as within its responsibilities under Division 21. These are to:

- a. Ensure that the requirements of Division 21 are known to all private school interests;
- b. Seek voluntary compliance on the part of private schools;
- c. Assist the Department of Education in developing and preparing cases for revocation or denial of licenses;
- d. Obtain injunctions to restrain unlawful or unfair practices; and
- e. Refer appropriate cases to the local District Attorney for criminal prosecution.¹²

The Attorney General's office has no position funded specifically for these purposes. Instead, these responsibilities, among others, have been assigned to staff members in Sacramento, San Francisco, and Los Angeles.¹³

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12. A 1969 communication from the Attorney General to the California Legislature Senate Committee on Education (to assist in an evaluation of Division 21) as quoted in M. H. Hood, "An Examination of State Control in California of Private Education" (Ph.D. dissertation, University of California, Los Angeles, 1970) p. 63.

13. According to a recent report issued by the Attorney General, "the following attorney hours have been utilized for or allocated to the Department of Education.

<u>Actual 74/75</u>	<u>Actual/Estimated 75/76</u>
3,170	3,048

No allocation of hours has been separately generated for private postsecondary school enforcement."

This report indicates that the equivalent of 1.5 persons from the Attorney General's staff devote full time to legal work concerning the Department of Education, of which issues relating to Division 21 are only a small portion. See memorandum to members of the Ad Hoc Committee on Planning and Special Projects, California Postsecondary Education Commission, from Elizabeth Palmer, Chief Assistant Attorney General, dated June 28, 1976.

Perhaps as a result of this staffing arrangement, the Attorney General's office has not been particularly active in carrying out its Division 21 responsibilities. For example, private school operators report only limited communications to them concerning changes in the legal requirements of Division 21.¹⁴ There apparently has also been limited involvement by the Attorney General in the preparation of cases for denial or revocation of licenses.¹⁵

3. Private Accrediting Agencies/Public Licensing Boards

Although the Education Code assigns no direct or legal responsibility to private accrediting agencies for the administration or enforcement of Division 21, they have been delegated *de facto*

14. Perhaps in response to this need for greater understanding of the legal requirements of Division 21, the Attorney General plans to publish "an informational pamphlet covering postsecondary institutions during fiscal year 1976-77. Work on this project is expected to begin on July 1, 1976. The pamphlet will be designed to inform students of their rights and institutions of their obligations under Division 21, and of consumer protection legislation generally. Written in laymen's language, it will:

- (1) Summarize Division 21 and its implementing regulations: (a) as to the institution's duties; and (b) as to the student's rights.
- (2) Identify and summarize consumer fraud legislation applicable to private postsecondary schools: (a) state; and (b) federal.
- (3) Set forth how and where to file a complaint with the various public agencies involved.

Ibid., p. 13.

15. It should be noted that the Attorney General's office responds to cases referred to them by the Bureau of School Approvals. The limited involvement by the Attorney General therefore reflects the limited demands placed upon that office by the Bureau.

In 1974, for example, only one case involving a Division 21 school was prosecuted by the Attorney General in Northern California. This case involved Market Trade Schools, in which a court action was brought by the Attorney General alleging fraud and misrepresentation. Although the Attorney General won the case, no action was taken to revoke the school's authorization under Section 29025 of Division 21. The school later closed voluntarily. There are currently four investigations being conducted by the Los Angeles office, one by the San Francisco office, and one by the Sacramento office.

Ibid., p. 7.

authority for the private accredited institutions in California. According to the Attorney General's office, there is a significant number of private institutions "to which Division 21 applies but over which the Superintendent of Public Instruction has no authority."¹⁶ These institutions fall into the following categories:

- Independent degree-granting institutions accredited by a national or regional accrediting agency recognized by the U.S. Commissioner of Education;¹⁷
- Private diploma-granting institutions accredited by a national or regional accrediting agency recognized by the U.S. Commissioner of Education;¹⁸
- Independent degree-granting institutions which are eligible to issue degrees because they have filed the necessary affidavits stating the ownership of an interest in real or personal property of not less than \$50,000 (to be used for educational purposes) and the necessary full disclosure of information;¹⁹
- Private diploma-granting institutions accredited, approved, or licensed by any of the several State licensing boards;²⁰ and
- Law schools which are accredited by the California State Bar or the American Bar Association.²¹

Accreditation by a recognized agency has been interpreted to exempt an institution from State regulation, except for the requirements to file an annual affidavit of accredited status with the Bureau of School Approvals. Student complaints and institutional abuses,

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16. Memorandum from Office of the Attorney General, Elizabeth Palmer, to Robert R. Coffman, Chief Counsel, State Department of Education, June 7, 1972.
 17. Institutions authorized to grant degrees under Section 29023(a)(1).
 18. Institutions authorized to grant diplomas under Section 29023(d).
 19. Institutions authorized to grant degrees under Section 29023(a)(3). See Chapter 5 for further discussion of these institutions.
 20. Institutions authorized to grant diplomas under Section 29023(c).
 21. Section 29024 exempts three-and four-year accredited law schools from provisions of 29023(a).

either reported by individuals or the Bureau's field representatives, are not handled by the Bureau; instead they are referred directly to the appropriate accrediting agency. Questions have been raised concerning the desirability of delegating such authority to a private agency which is not accountable to the citizens of California²² or their representatives.

C. Deficiencies in the Administration of Division 21

The current administration of Division 21 has been criticized as having four major deficiencies:

1. It is unresponsive to the needs of the student consumer;
2. It is unresponsive to and nonrepresentative of the needs of private institutions;
3. There has been an absence of aggressive implementation and enforcement of Division 21; and
4. There is an absence of centralized authority and responsibility for the supervision and regulation of private postsecondary institutions.

1. Unresponsive to the Needs of the Student Consumer

California has the largest number of students enrolled in private vocational/technical schools of any state in the nation.²³ Nevertheless, California is unique among states in financing the regulation

22. "A private vocational school can avoid scrutiny by the Superintendent of Public Instruction by being approved by the U.S. Office of Education. The U.S. Office of Education in actuality delegates its responsibility for approving schools to private accrediting organizations. This delegation to non-governmental groups is senseless and avoids the purposes of Division 21. . . Abdicating the responsibility of evaluating schools by shifting this task to private organizations which have little impetus or interest in protecting the public also raises the possibility of subjecting the State to civil liability." Office of the Attorney General, Notes from a May 19, 1975, meeting concerning 1975 Vocational School Legislative Proposals, p. 3.

23. In 1974-75, approximately 165,000 students enrolled in independent California vocational/technical schools (see Chapter III, Table 6 in this report). Postsecondary Career School Survey: 1975, National Center for Education Statistics, Department of Health, Education, and Welfare, coordinated by the Commission's Information Systems Division.

of these schools solely through licensure fees. Perhaps as a consequence, there are several areas in which the administration of Division 21 has been unresponsive to the needs of the student consumer.

- a. Prior to July 1975, the Bureau of School Approvals had no established procedure for processing student complaints.²⁴ Following pressure on the Bureau from the Council for Private Postsecondary Educational Institutions and the Legislature, a uniform procedure was implemented and has been in effect during the past year. Until the adoption of this procedure, the Bureau did not have the capability to discern patterns in student complaints and thereby respond quickly to indications of unethical and/or illegal school operations.²⁵ Moreover, the Bureau has not been successful in establishing procedures which require schools to eliminate activities that are the source of frequent, recurring complaints.²⁶

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24. Complaints were handled on an individual basis by the field representatives, without either central coordination or a uniform procedure for responding to complaints.
 25. There are indications that Bureau operations in this area are beginning to improve. In a February 1976 report to the Legislature, the Bureau stated that the most frequent type of complaints concerned misrepresentation/fraud, quality of instructor, dispute on payments, contract disagreements, and advertising. The two most common actions taken by the Bureau in response to these complaints were: (1) to negotiate a compromise between the complaining party and the school, and (2) to refer the complaints to another agency. A Report to the Legislature Relative to the Magnitude in Number and Type of Complaints Received by the Bureau of School Approvals as Required by the Supplementary Report of the Committee on Conference Relating to the Budget Bill (FY 75-76, item 322), California State Department of Education, February 1976.
 26. As the State Approval Agency for the Veterans Administration,

The Bureau is required to investigate individual complaints against schools alleging violations of approval criteria. The reports of investigations received are seldom completed and submitted within the 30 days required, nor do they give adequate information so we can furnish a satisfactory reply
(Footnote continued on next page.)

- b. During the past six years several major schools in California have closed suddenly.²⁷ Furthermore, during the past year, approximately 10 percent of the private institutions in the State closed.²⁸ The Bureau apparently has been unsuccessful in identifying which of these institutions closed in mid-term, thereby leaving students with money paid for incompieted courses.²⁹ Occasionally,

to the complainant. The Bureau is also expected to take the necessary action to require the offending school to establish procedures to prevent recurrence of the activity causing the complaint.

It is apparent from reports received that the representatives generally defend the actions of the school, even when the school records substantiate the validity of the complaint. They do not show that any specific recommendations are made to the school and since we continue to receive complaints against these schools we must assume no corrective action was required by the Bureau. Since the Veterans Administration is paying the Bureau to approve and maintain approvals in accordance with the controlling regulations, it follows that they have the inherent responsibility of upholding the integrity of the program by insisting that participating schools adhere to established regulations and procedures.

Letter from R. F. Welch, Director, Regional Office, Veterans Administration, to Bruce D. Hamlett, California Postsecondary Education Commission, dated April 26, 1976.

27. Among these were: West Coast Trade Schools, Telco, Career Enterprises, Blair College; Riverside University, Willis Business Schools, and Cyberdynamics Computer School.
28. This information is derived from the Bureau of School Approval's summary of monthly activities, which indicated that 180 schools closed in 1975.
29. At its March 1976 meeting, the Council for Private Postsecondary Educational Institutions stated that "more should be done in the way of securing teach-outs for students." Minutes, Council for Private Postsecondary Educational Institutions, March 10, 1976, p. 3.

teach-out arrangements have been made with other institutions in the area, primarily as a result of action by voluntary professional organizations such as the California Association for Private Education (CAPE) and the California Association of Paramedical Schools (CAPS). Until recently, action by the Bureau was generally limited to advising students that their only alternative was to go to court.³⁰ Since January, however, the Bureau has increased its efforts to assist students affected by the mid-term closure of an institution.³¹

- c. Student complaints about accredited institutions are not handled by the Bureau of School Approvals but are forwarded to the appropriate accrediting

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30. To illustrate, the Bureau of School Approvals has used the following type of correspondence:

On January 29, 1971 the BSA was advised by Mr. _____ that effective February 29, 1971 Cyberdynamics closed both the San Jose and San Francisco schools. The letter was acknowledged on February 25, 1971, and as far as this office is concerned both schools have ceased to exist. There is, therefore, no action we can take against them. The judgment against the corporation that you received in small claims court apparently is the only recourse you have. We suggest that you seek the advice of legal counsel in this matter.

(Letter obtained from the Bureau's files, Sacramento, November 1975.)

Since many schools close due to bankruptcy or fraud (and disappearance of the owners), court judgments are usually an exercise in futility.

31. The Bureau of School Approvals' report indicated that "during the period from January 1, 1976 through February 20, 1976, of 18 schools that closed, teach-outs were arranged for 7 schools and information was unavailable as to the disposition of students in the remaining schools." Associate Superintendent Del Buono, State Department of Education, reported that his staff is attempting to develop methods to obtain more information regarding the placement of students in teach-outs. Minutes, Council for Private Postsecondary Educational Institutions, March 10, 1976, p. 3.

agency.³² The Bureau does not followup these complaints to assure that the interests of the student consumer are being being protected.

2. Unresponsive to and Nonrepresentative of the Needs of Private Institutions

California has the largest number of private degree- and nondegree-granting institutions in the United States.³³ Measured in terms of student enrollment, these institutions constitute the second largest segment of California postsecondary education.³⁴ Nevertheless, the only voice these institutions have in the State's regulation of their segment is through an advisory board--the Council for Private Postsecondary Educational Institutions--within the Department of Education. Thus far, the Council, whose members are appointed by the Superintendent of Public Instruction, has had little impact on the administrative policies of the Bureau of School Approvals.

Because, the Council has not had regular staff support, it has been unable to follow through with its recommendations and plans. In its present advisory role, the Council does not provide an effective vehicle for the private institutions to participate in their own regulation and development.

There is evidence that the Bureau of School Approvals has not been responsive to the needs of the private institutions in several areas:

32. Approximately 40 percent of the complaints received by the Bureau of School Approvals are referred to other agencies, including the State licensing boards and the national and regional accrediting agencies. A report to the Legislature relative to the magnitude in number and type of complaints received by the Bureau of School Approvals. . . . February 1976, p. 3.

33. The 249 private degree-granting institutions represent nearly 20 percent of those nationwide, while the 1,500 private, vocational, technical institutions represent nearly 15 percent of those nationwide.

34. The private degree- and nondegree-granting institutions enroll approximately 20 percent of the students in California postsecondary education. The California Community Colleges enroll approximately 54 percent, the California State University and Colleges enroll approximately 16 percent, and the University of California enrolls approximately 9 percent. See Section II.D. for further information.

a. Private vocational/technical schools need a regulatory environment which allows them to modify programs quickly and to adjust to changing demands of industry. The Bureau has not demonstrated a consistent flexibility or quickness in processing institutional requests for changes in courses and programs,³⁵ and consequently the flexibility of some of the private schools has been unnecessarily restricted.³⁶

b. Private vocational/technical schools need a regulatory environment which encourages self-regulation, and makes it difficult for unethical and/or illegal institutions to function--i.e., an environment that encourages administrators of quality institutions to report undesirable and/or unethical actions of other schools. Given the Bureau's somewhat ineffective, and only recently developed, complaint procedure and given the Bureau's apparent lack of up-to-date records concerning school operations,³⁷ the Bureau has not developed a

35. Institutions are required to file requests for approval of any of the following: changes of location, major change or revisions in curriculum, auxiliary facilities in a new location, and additional courses. (Section 29027(d)(3), Division 21.)

36. The Veterans Administration has reported that they

. . . receive numerous complaints from school officials about the delays they experience in trying to get guidance and assistance from the Bureau to obtain approval of courses for veterans training. This problem causes uncommon delays for the schools since they cannot enroll veterans under our educational program until the course is approved by the Bureau and accepted by the Veterans Administration.

Letter from R. F. Welch, Director, Regional Office, Veterans Administration, to Bruce D. Hamlett, California Postsecondary Education Commission, dated April 26, 1976.

37. To illustrate what is meant by the absence of up-to-date records, the following two examples are provided:

(a) Commission staff received inquiries about the quality of the academic program at Pacific College operating in the Los Angeles area. According to the college's stationery, it has been in operation for 48 years. The Bureau of School Approvals had no information concerning this institution; and
(Footnote continued on the next page.)

working relationship with the private school operators which would encourage self-regulation.

There is also evidence that the Bureau has not been completely effective in its annual inspection and evaluation of licensed institutions. The closure of several institutions, all of which were approved by the Bureau, resulted in students losing large sums of money and wasting time in unfinished courses and programs of questionable quality.³⁸ These sudden closures raise questions concerning the effectiveness of the Bureau's regulatory operations.³⁹

- c. Private institutions need a regulatory environment which encourages the development of privately supported education.⁴⁰ Division 21 mandates that the

(b) Starr King School for the Ministry, which has a good reputation, has been granting degrees for several years, although according to Bureau records it is registered to operate only as a nondegree-granting institution.

38. The institutions were West Coast Trade Schools, Telco, Career Enterprises, Blair College, Willis Business College, California Professional Schools, and Cyberdynamics Computer School. All were approved by the Bureau during the past five years to operate under Section 29025 of Division 21.

39. The Veterans Administration has argued that

. . .the Bureau loses a great deal of its ability to meet its contractual obligations to the Veterans Administration because the representatives are assigned to supervise the same schools year after year. After a period of time they are unable to remain impartial or require enforcement of policies and procedures to comply with Title 38, U.S.C. Objectivity is often abandoned in favor of a protective attitude toward the school. This loss of objectivity affects the entire scope of approving courses, making supervisory visits, or investigating complaints.

Letter from R. F. Welch, Director, Regional Office, Veterans Administration, to Bruce D. Hamlett, California Postsecondary Education Commission, April 26, 1976.

40. As noted earlier, the legislative intent of Division 21 is "to encourage privately supported education." (Section 29001)

Department of Education publish an annual list of all private institutions to provide information to the public concerning this segment of postsecondary education. The list is to contain the names and addresses of the schools, as well as identify statutory sections under which they operate. Despite this legislative mandate and the fact that a fee could be charged to cover the cost of compiling the list, the list has been published only twice in the past four years, and it includes both public and private schools.⁴¹

Given the significance of the private segment in California, it is important to the potential student consumer that a relatively current list of private degree- and nondegree-granting schools be readily available and organized in a useful fashion.

3. Absence of Aggressive Implementation and Enforcement of Division 21

There are several provisions of Division 21 that provide a basis for effective regulation of private institutions which have not been effectively implemented by the Bureau of School Approvals. Of these provisions, the more important are those concerning advertising, out-of-state correspondence schools, and the financial stability of private institutions.

- a. The provisions concerning advertising are comprehensive, stating that any advertising must not be "erroneous or misleading, either by actual statement, omission, or intimation."⁴² Restrictions are also provided against promises concerning employment and job availability⁴³ and any other statement which is

41. Courses Offered by California Schools; Approved Under Title 38, United States Code and authorized or approved under Division 21, California Education Code, prepared under the direction of Noel D. Glasgow. (1973, Office of State Printing) A new list was published in April 1976 by the Bureau of School Approvals.

42. Section 29025(9) of Division 21.

43. Division 21 states that

No person, firm, association, partnership, or corporation owning or representing any private school offering training to adults shall: promise or
(Footnote continued on next page.)

known, or reasonably should be known, "to be false, deceptive, inaccurate, or misleading."⁴⁴ The Bureau has not actively enforced these restrictions. Several private school owners who have attempted to report violations of the advertising provisions claim that the Bureau has been unresponsive to their requests.

- b. A second example of weak implementation and enforcement of Division 21 is the Bureau's almost complete disinterest in out-of-state correspondence schools doing business in California. Sales representatives for both in-state and out-of-state correspondence schools must have a valid permit and be bonded if they wish to sell courses in California. However, in those cases where home study schools sell their courses through the mail only, no approvals, permits, or bonds are required. The Bureau makes little attempt to evaluate the actions of out-of-state correspondence schools in advertising, solicitation of students, and "making representations in California that it will issue a diploma,"⁴⁵ despite the fact that, according to the Attorney General, the Bureau is legally empowered to regulate these institutions.

The statutes [Section 29025] applies to correspondence schools which advertise, solicit students, conduct courses, or do similar acts in California, and which have a home office out of California, but local offices in California, the diploma to be issued by the home office to the California students; and to correspondence schools doing such acts in California, which have no California offices but offices solely out of state,

guarantee employment utilizing information, training or skill purported to be provided or otherwise enhanced by a course; or advertise concerning job availability, degree of skill and length of time required to learn a trade or skill unless the information is accurate and in no way misleading. (Section 29025(b) + (c))

44. Section 29035(a).

45. Opinion of the Attorney General, Vol. 34, No. 58-203, August 31, 1959, p. 112.

delivery of the diploma to be made by mail to a student in California.⁴⁶

The failure to regulate these institutions can be quite serious, particularly since there is evidence that accredited correspondence schools have high drop-out and low placement rates.⁴⁷

- c. The financial stability of private institutions is an important issue since most institutions which close in mid-term leave students with incomplete educational programs and do not reimburse them for tuition already paid. Division 21 currently assigns to the Bureau responsibility for determining, on an annual basis, that each private vocational/technical institution is "financially capable of fulfilling its commitments" for all approved courses.⁴⁸ If the institution is not "financially capable" the Bureau can revoke its authorization to operate. There is a serious question as to the past effectiveness of the Bureau in implementing this responsibility.⁴⁹

4. Absence of Centralized Authority and Responsibility for the Supervision and Regulation of Private Postsecondary Institutions

The administration and the enforcement of Division 21 are assigned to separate State agencies. California is apparently unique in

46. Ibid., p. 100

47. The U.S. Federal Trade Commission reported that accredited correspondence schools have a drop-out rate of nearly 88 percent, with less than 10 percent of the enrollees actually placed in positions for which they were trained. "Fact Sheet: Privately Owned Vocational Schools," U.S. Federal Trade Commission (Washington, D.C., 1974).

48. This responsibility applies to all institutions authorized to operate under Section 29025 of Division 21.

49. As discussed above, most of the major school closures (in terms of student enrollment) during mid-term, have been by schools approved by the Bureau to operate under Section 29025 of Division 21.

providing for this bureaucratic separation of powers, in that all other states surveyed in this study assigned the primary enforcement responsibility (including the power to obtain injunctions) to the administrative agency.⁵⁰

An apparent result of this separation of responsibility is increased inactivity, delays, and confusion in the effective enforcement of Division 21 provisions. For example, according to a staff member in the Bureau of School Approvals, four requests for injunctions that were forwarded to the Attorney General's office were not acted upon after a twelve-month period.⁵¹ A Los Angeles-based institution continues to operate, although two years ago the federal government revoked its Veterans Administration approval and the Bureau subsequently revoked the State course approval.⁵²

Confusion also exists about the exact functional separation between administration and enforcement. Whereas Division 21 clearly delegates the investigatory function to the Attorney General, there is some disagreement on the definition of what constitutes "investigation." According to staff of the Attorney General's office,

. . . preliminary legal questions shall be handled by the Department of Education's legal staff. Matters involving

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50. This survey focused on sixteen states, in addition to California. See Appendix J for more discussion of this issue.

The Education Commission of the States' Model State Legislation also joins administrative and enforcement powers as a more effective means of providing consumer protection. Education Commission of the States. Model State Legislation. Report No. 39 (Denver, 1973).

51. Raymond Wiedman, Field Representative, interview held at the Bureau of School Approvals, November 1975. N. Eugene Hill, Assistant Attorney General, Department of Justice, reports that his office has no record of these requests.
52. The Theatre of Arts in Los Angeles was suspected of illegal operations and, following investigation by the Veterans Administration, approval was revoked. State authorization (under Section 29025 for course approval) remained until the Bureau, working with the Council on Private Postsecondary Educational Institutions, began hearings in compliance with the Administrative Procedures Act. When the decision was made to revoke the State approval, the institution immediately appealed to the Superior Court and, since the case has not yet been heard, continues to operate. If the institution were to lose this appeal, it could appeal again and thereby obtain further opportunity to enroll students unaware of this legal history.

litigation will be handled by the Attorney General." The same memorandum states that, "The Bureau of School Approvals, Department of Education, shall develop information within its capabilities, to obtain facts necessary to make determinations whether a punitive action shall be filed. If an investigation is necessary the matter shall be referred to the Attorney General."⁵³

Officials in the Bureau do not agree with this interpretation, however, as they consider all investigation to be the responsibility of the Attorney General.⁵⁴

Regardless of the type of investigation required, the Attorney General's office is neither staffed for nor oriented toward the extensive responsibility of investigating the practices of approximately 1,800 private institutions. There are no staff positions funded for this specific function. The responsibility is delegated to staff members in each of the regional offices, who consider the enforcement of Division 21 as only one of several responsibilities associated with their work.⁵⁵

D. Causes of the Ineffective Administration of Division 21

Two basic factors underlie many of the deficiencies in the administration of Division 21: (1) the subsidiary role of the Bureau of

53. Memorandum from Elizabeth Palmer, Office of the Attorney General, to Robert R. Coffman, State Department of Education, June 7, 1972, pp. 2-3.

54. A more recent memorandum from the Attorney General's office states that, "the Attorney General does consider factual investigation within the statutory responsibilities of the Attorney General. Complaints which require such factual investigation are routinely referred to the Bureau of Investigation for that purpose. There are currently four such investigations open in the Los Angeles office, one open in the San Francisco office, and one open in the Sacramento office." Memorandum from Elizabeth Palmer, Office of the Attorney General, to members of the California Postsecondary Education Commission's Ad Hoc Committee on Planning and Special Projects, June 28, 1976, pp. 6-7.

55. See footnote #13, p. 43.

School Approvals and its limited funding, and (2) the Department of Education's primary concern with elementary and secondary education.

1. Subsidiary Role and Limited Funding

Despite the magnitude of California's private educational sector and the number of students it serves, the Department of Education has not assigned the implementation of Division 21 to a high-level reporting unit. Until recently the Bureau of School Approvals was located within the Division of Administrative Services and reported to the Chief of the Division of Financial Resources and Distribution of Aid. The Bureau chief is not an associate or deputy to the Superintendent of Public Instruction, but reports through the Associate Superintendent for Adult and Continuing Education.

As noted earlier, the administration of Division 21 is not the primary function of the Bureau. Rather, its first duty is to serve as the State Approving Agency for the Veterans Administration in determining whether or not courses in both public and private institutions are eligible to enroll VA-supported students. Approximately two-thirds of the Bureau's budget and three-fourths of its staff are devoted to this activity.⁵⁶ The effectiveness of the administration of this function can be questioned for the following reasons:

- According to Veterans Administration staffing standards, the Bureau should have 36 full-time employees for VA work alone. The Bureau has only 32 employees to carry out both its VA and Division 21 responsibilities.⁵⁷

56. See page 41 for a specific statement of the Bureau's budget and staffing for 1975-76. A management analysis of the Bureau concluded that it has historically been funded "at a ratio of approximately 75 percent Federal aid and 25 percent State funds." A time survey of Bureau personnel reported that the agency spends "43.52 percent of its time on V.A.-related activities and 56.48 percent of its time on Division 21 activities." Management Analysis Review of the Bureau of School Approvals, by George K. Fujita and Leroy Munsch, Management Analysis Office, Department of Education, State of California, February 1974, p. 5.

57. In discussing the staff needed by the Bureau to carry out its VA responsibilities, it was decided that for Fiscal Year 1975-1976, "the number of institutions involved required 24 professional staff members and 12 clerical support members. However, the contract submitted to us for approval (by the (Footnote continued on next page.)

- The VA requires that participating institutions be visited at least once each year by a Bureau staff member to review VA-approved courses. Since each field representative handles approximately 100 VA-approved institutions, as well as approximately 50 non-VA-approved institutions, it is very doubtful that the institutions are thoroughly reviewed.

Other large states have considerably different staffing patterns than California.⁵⁸ New York, for example, with half the budget of California's, employs only four fewer professional staff members. Pennsylvania, with a budget of approximately \$100,000 less than California, employs 60 percent more staff. A smaller state such as Wisconsin has a budget one-seventh the size of California's, but employs one-third as many staff. Texas, with a little more than half the budget of California, employs four more staff members.⁵⁹

The result of the Bureau's staffing pattern is an extremely high ratio of private institutions to professional staff. A typical workload is approximately 150 institutions for each staff member. By comparison, New York has a ratio of 25 to 1; Pennsylvania 20 to 1; Wisconsin 18 to 1; and Colorado 30 to 1.⁶⁰ California private school administrators have considerable justification when they complain that, although California's licensing fees are the highest in the nation, the Bureau does not have the manpower to provide leadership, guidance, and/or services to the private school segment.

A major cause of inadequate staffing is the fact that the Bureau's funds for administering Division 21 are derived solely from the licensure fees it assesses; the agency receives no support from the State's General Fund. As a result, California's school licensure fees are the highest in the nation.

Bureau) showed 12 professional staff members and 9 clerical support members. Therefore, we must conclude that present staffing levels are inadequate to provide the services needed." Letter from Mr. R. F. Welch, Director, Regional Office, Veterans Administration, to Bruce D. Hamlett, California Postsecondary Education Commission, dated April 26, 1976.

- 58. For a detailed comparison of California, New York, and Pennsylvania, see Appendix K.
- 59. For a detailed comparison of the 16 states surveyed see Appendix L.
- 60. These comparisons include VA-funded positions.

In 1975-76, the Bureau's budget contained a total of \$317,000 to actively regulate the operations of nearly 1,800 institutions. By contrast, all of the 16 states sampled, fund the major portion of their regulatory agency's budget through general fund appropriations. In many cases these appropriations represented 70 to 80 percent of the agency's overall budget, with licensure fees providing the balance.

With the largest number of private postsecondary schools of any state, California is unique in attempting to finance its regulatory activities solely from fees charged the institutions it approves and oversees. The lack of State financial support is one of the factors responsible for the ineffective regulation of private institutions and the limited protection of the educational consumer.

2. Inappropriateness of the Regulatory Agency

Division 21 is concerned with private postsecondary academic degree-granting institutions and with private postsecondary vocational/technical institutions. The Department of Education, in contrast, is "the agency of the state government responsible for the regulation and control of that part of the California (secondary) public school system that is composed of elementary schools, high schools, and the special schools operated by the state for blind, deaf, and neurologically handicapped children [emphasis added]."61 As provided in the Education Code, the major duties of the State Board of Education are to establish policy for the Department of Education; propose legislation to improve the public schools; adopt textbooks for grades one through eight; review school district reorganization plans; and allocate federal funds for such purposes as compensatory and vocational education. There is no clear functional rationale for the assignment of responsibility for the regulation of private postsecondary institutions to an agency responsible for public primary and secondary education.

The major responsibilities of a State agency which oversees private postsecondary education should be to:

- a. provide effective regulation of private institutions to assure that they meet generally accepted standards of quality;
- b. respond to the needs of students enrolled in private institutions so as to protect their interests; and
- c. provide effective leadership and planning so that the citizens of California will obtain the maximum benefit from the resources provided by the private sector.

61. March Fong Eu, Secretary of State, California Roster for 1975-76. (Sacramento: State of California, 1975), p. 61.

The State Department of Education, with its emphasis on public primary and secondary education, is not the appropriate agency to exercise these responsibilities.⁶²

E. Conclusion

To eliminate the existing deficiencies in the administration and enforcement of Division 21, three major changes must be made:

1. administrative and enforcement responsibilities must be centralized in a single agency;
2. this agency must be responsive to and representative of the needs of educational consumers as well as those of private postsecondary institutions; and
3. the agency must have adequate funding to execute its several responsibilities.

These changes must be made within a framework which will facilitate the integration of private postsecondary education (particularly

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62. Many educational administrators have criticized the Bureau of School Approvals for the lack of staff members with detailed knowledge about private and/or vocational/technical postsecondary educational institutions, as well as expertise in accounting, budgeting, and investigatory work. This latter expertise is important in seeking to determine the financial stability of institutions.

Among the criteria used to select both the Bureau Chief and field representatives is:

Possession of a valid standard administration credential; or standard supervision credential with principalship authorization; or credential of life diploma of equivalent authorization issued under the authority of the Commission for Teacher Preparation and Licensing.

While this is only one of several criteria used, there is little correlation between the possession of a public, secondary school credential and expertise in evaluating private postsecondary institutions and their programs. Nevertheless, in the recent selection process for a new Bureau chief, the above criteria was used to help identify qualified candidates.

vocational/technical institutions) into a coordinated system of California postsecondary education.

Commission staff has considered four alternative approaches through which to implement these changes.

Alternative 1: Centralize Responsibility in the Bureau of School Approvals

The Bureau of School Approvals should receive funds from the State's General Fund to increase the size of its staff to the level appropriate for the aggressive administration and enforcement of Division 21. The Chief of the Bureau should be an associate or deputy to the Superintendent of Public Instruction, and the Bureau a high-level reporting unit within the Department of Education. Staff from the Attorney General's office should be assigned to the Bureau with specific responsibility for the factual and legal investigation of Division 21 schools. The Bureau should have the authority to issue injunctions and thereby close schools operating illegally.

The drawbacks of this alternative are:

1. the responsibility for the regulation of private postsecondary institutions would continue to be a function of the agency responsible for public primary and secondary education;
2. the Bureau has not demonstrated, in the past, an ability to respond to the needs of either the consumer or the producer of private education; and
3. the Bureau has not demonstrated an ability to provide leadership for private postsecondary education, and has, therefore, not facilitated the integration of private postsecondary institutions (particularly private vocational/technical institutions) into a coordinated system of California postsecondary education.

Alternative 2: Centralize Responsibility in the Department of Consumer Affairs

The current responsibilities of the Bureau of School Approvals should be transferred to the Department of Consumer Affairs. Responsibility for administering all provisions of Division 21 would be centralized in that agency, including coordination with the several licensing boards already located there.⁶³ As discussed

63. Several boards located in the Department of Consumer Affairs, including the Board of Cosmetology and the Board of Dental Examiners, are responsible for licensing private nondegree-granting institutions under Section 29023(c) of Division 21.

in Alternative 1, the regulatory agency should receive support from the State's General Fund and staff from the Attorney General's office should be assigned specific responsibility for the factual and legal investigation of Division 21 schools.

The drawbacks of this alternative are:

1. the Department of Consumer Affairs does not have expertise in private postsecondary education and, therefore, would not be in a position to provide knowledgeable regulation of these institutions;
2. the Department of Consumer Affairs is not an appropriate agency to promote the legislative intent of Division 21--"to encourage privately supported education and protect the integrity of degrees and diplomas;" and
3. the Department of Consumer Affairs is not in a position to provide leadership for private postsecondary education and, therefore, would not facilitate the integration of private postsecondary institutions into a coordinated system of California postsecondary education.

Alternative 3: Divide the Responsibilities Between the Bureau of School Approvals and the Department of Consumer Affairs

The Bureau of School Approvals should assume all responsibility for the licensing and approval of private institutions, while the responsibility for enforcement of all consumer-related matters (such as processing of student complaints and the investigation of violations of tuition refund provisions and restrictions on advertising) should be transferred to the Department of Consumer Affairs. Staff from the Attorney General's office should be assigned specifically to the Department of Consumer Affairs for the investigation of complaints concerning Division 21 schools.

The drawbacks of this alternative are similar to those discussed for Alternatives 1 and 2. In addition, it would not clearly define and distinguish the responsibilities of the two agencies and would, thereby, serve as an obstacle to the needed centralization of authority for administering and enforcing Division 21.

Alternative 4: Centralize Responsibility in a Reorganized Council for Private Postsecondary Educational Institutions with the Council to be Responsible to the Legislature and the Governor

Current responsibilities of the Bureau of School Approvals should be transferred to the Council for Private Postsecondary Educational Institutions, which would become an administrative agency directly responsible to the Legislature and the Governor. Members on the Council would be appointed by the Legislature and the Governor, and the Council would be completely independent of the Department of Education. The Council would have the power to appoint and remove its Director. The Director of the Council would have the authority to appoint persons to such staff positions as the Council might authorize. Staff from the Attorney General's office would be assigned to the Council with specific responsibility for the factual and legal investigation of Division 21 schools.

The drawbacks of this proposal are:

1. unless the Council maintained a majority of public members (as against members representing the private institutions), it might be overly responsive to the needs of some private schools at the expense of the consumer of private education and the California public as a whole; and
2. transferring responsibility from the Bureau to the Council constitutes a major administrative reorganization and a probable increase in State expenditures.

F. Recommendations

The Department of Education should be relieved of the responsibility for regulating private postsecondary education in California because:

1. the Superintendent of Public Instruction is not in a position to provide the leadership and planning needed for the maintenance and development of a strong private sector of postsecondary education in California;
2. the Department has not been effective in administering the provisions of Division 21;⁶⁴ and

64. The following individuals testified before the Ad Hoc Committee on Planning and Special Projects of the California Postsecondary Education Commission in criticism of the Department of Education for its ineffectiveness in administering Division 21 and in support of the proposal to establish an autonomous Council for Private Postsecondary Educational Institutions as recommended (Footnote continued on next page.)

3. given primary responsibilities of the Superintendent of Public Instruction for primary and secondary education, his office is not the appropriate agency to regulate private postsecondary education.

Based upon these conclusions and thorough consideration of the four alternatives, the Commission staff recommends

Alternative 4:

Centralize Responsibility in a Reorganized Council for Private Postsecondary Educational Institutions with the Council to be Responsible to the Legislature and the Governor.

This proposal offers the most effective method of facilitating the integration of the private sector (particularly vocational/technical institutions) into a coordinated system of California postsecondary education. It assigns responsibility for regulating and promoting private postsecondary education to an agency appropriate for that function, and also provides the means to respond to the needs of the consumer of private education.

This recommendation also provides the best method for private institutions to achieve parity with public postsecondary institutions for purposes of State planning and utilization of educational resources. Just as the California State University and Colleges and the California Community Colleges found it necessary to separate from the Department of Education in order to achieve dramatically expanded educational missions, the time has now arrived for private postsecondary education, the second largest segment in California, to be accorded equal administrative and planning status with the three public segments. For these reasons, the Commission staff makes the following recommendations:

Recommendation 1:

The current responsibilities of the Bureau of School Approvals should be transferred to the Council for Private Postsecondary

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- 64 in this report: Cleve Cunningham, Executive Director, Association of California Educators and Editor and Publisher of The California Journal; Dan Heffernan, President, California Association for Private Education; Richard Gross, President, California Association of Schools of Cosmetology; John Humphreys, President, Private Schools Association of California; and Randy Howe, Treasurer, California Association of Paramedical Schools.

Educational Institutions.⁶⁵ The Council should become an administrative agency directly responsible to the Legislature and the Governor.⁶⁶ Members on the Council would be appointed by the Legislature and the Governor with membership expanded to 13 persons. The Council should be completely independent of the Department of Education. The Council would meet as often as deemed necessary to carry out its duties and responsibilities. The Council should have the authority to appoint and remove its Director. The Director of the Council should have the authority to appoint persons to such staff positions as the Council might authorize.

Recommendation 2:

The membership of the Council should be predominantly representatives of the general public.⁶⁷ All public members should have a strong commitment to protecting the educational consumer and developing private postsecondary education.⁶⁸ Membership should include representatives of business or labor organizations that employ or represent substantial numbers of persons in positions requiring vocational and technical skills.

Membership of the Council should also provide for representation of the variety of private postsecondary institutions operating under the authority of Division 21. These members shall be appointed by the Governor from a list or lists submitted by an association or associations of such institutions. The chairman of the California Advisory Council on Vocational Education or his designee should be an ex-officio member of the Council.

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65. A proposed budget for the Council for Private Postsecondary Educational Institutions has been prepared and Commission staff has begun working with the Department of Finance to refine and improve this analysis. Preliminary budget analysis indicates that creation of the new Council, with 18 additional full-time staff positions, will involve an increase of total expenditures of approximately \$275,000.
 66. The accredited degree-granting institutions would continue to maintain the same relationship with the proposed Council that now exists between these institutions and the Bureau of School Approvals.
 67. It is the consensus of the Commission that the Council membership should be predominantly representative of the general public. A nine to four ratio of public to private membership was offered as indicative of this representation.
 68. The members of the general public should be appointed by the Governor, the Senate Rules Committee, and the Speaker of the Assembly.

Recommendation 3:

The activities of the Council in administering Division 21 should be supported from the General Fund revenues, as well as from school licensure fees. The activities of the Council as the State Approval Agency for the Veterans Administration should be funded from federal funds.

Recommendation 4:

The administrative and enforcement functions set forth in Division 21 of the Education Code should be combined in a single agency--the Council on Private Postsecondary Educational Institutions--with staff from the Attorney General's office specifically assigned to the Council to investigate and verify violations of the Code.

Recommendation 5:

The Council may appoint such subcommittees or advisory committees as it deems necessary to advise it on matters of educational policy. Such advisory committees may consist of Council members or non-members or both, including students, faculty members, school administrators, governmental representatives, and representatives of the public.

Recommendation 6:

The California Postsecondary Education Commission should maintain the data base that will be needed by the Council. The Commission's Information Systems Division is currently involved in an intensive effort to develop a computerized data base on postsecondary education. Liaison staff within Information Systems Division should be assigned to work closely with staff of the new Council, especially in the developmental stages of the data base. Through joint consultation, data needs for both agencies could be accommodated with no duplication of effort, and data entered in the base as needed. Information on vocational and other schools not currently included in the Commission's Directory of California Colleges and Universities and in its Inventory of Academic and Occupational Programs could be organized and published in a single document, which would supply prospective students with complete, accurate, and timely information in decisions about their educational future in California. An information digest could also be published annually by the Commission staff, documenting in quantitative terms the condition of California's postsecondary education system.

Recommendation 7:

The Council should submit an annual statement, or plan, of its objectives and priorities to the California Postsecondary Education Commission to be reviewed by the Commission and included in the annual Five-Year State Plan for postsecondary education. The Council planning efforts should be directed to two general areas:

1. The California Postsecondary Education Commission has the responsibility to (a) collect and conduct studies of projected manpower supply and demand; (b) review and make recommendations concerning the need for and availability of postsecondary programs for adult and continuing education; (c) develop criteria for evaluating the effectiveness of all aspects of postsecondary education; (d) consider the relationships between academic and occupational and vocational education programs; and (e) serve as a stimulus to the segments and institutions of postsecondary education by projecting and identifying societal and educational needs and encouraging adaptability to change.

The Council's annual statement to the Commission should address these issues and facilitate the Commission's efforts as the statewide agency responsible for postsecondary education planning and coordination.

2. The Council should develop policy guidelines for improving the quality of educational programs throughout private postsecondary education. These guidelines might consider such issues as (a) the improvement of placement procedures for students trained in vocational schools; (b) the development of an effective student tuition indemnification plan; and (c) the improvement of contractual relations between the public and private institutions.⁶⁹

69. For a discussion of contracting between private and public institutions see Chapter VIII of this report.

V. DEGREE-GRANTING INSTITUTIONS--THE "A-3 PROBLEM"

There are currently 236 private degree-granting institutions in California. These institutions are legally qualified to operate under any one of three provisions: (1) full accreditation by a national or regional accrediting agency recognized by the U. S. Commissioner of Education;¹ (2) approval by the Bureau of School Approvals to award specified degrees;² or (3) possession of real or personal property with a fair market value of at least \$50,000 to be used exclusively for educational purposes.³

In recent years, legislative debate concerning private postsecondary education has tended to focus on the last of these provisions--the so-called "A-3" provision. After filing an affidavit of ownership of \$50,000 worth of property to be used for educational purposes, a corporation can open an educational institution and grant degrees. Under this section of the law no provision is made for public inspection or peer evaluation of the institution and its educational program. Proponents of legislation to eliminate this provision have argued that the absence of peer evaluation and/or public inspection of A-3 institutions provides no basis for quality control and opens the door for alleged degree-mills and unethical operations.⁴ Supporters argue that it provides the only method to

1. There are 99 fully accredited private degree-granting institutions in California including, for purposes of illustration, Stanford University, Pomona College, and Loma Linda University. A complete listing of these institutions, which operate under Section 29023(a)(1) of Division 21 of the Education Code, is provided in Appendix B.
2. There are 26 private institutions approved by the Bureau of School Approvals to grant degrees including, for purposes of illustration, Columbia College, West Coast Bible College, and Cleveland Chiropractic College. A complete listing of these institutions, which operate under Section 29023(a)(2) of Division 21 of the Education Code, is provided in Appendix B.
3. There are 111 private institutions registered with the Bureau of School Approvals to grant degrees under this provision (Section 29023(a)(3) of Division 21) including, for example, Nairobi College and Fletcher Hills Bible College. A complete listing of these institutions is provided in Appendix B.
4. Senator Rodda's 1971 bill, SB 1574, called for the possible elimination of the A-3 provision and Senator Greene's SB 913 of the 1975 Legislature proposed to delete it entirely.

start a new school as well as the method by which alternative educational programs and religious oriented schools can function without state interference and domination.⁵

The basic issue in the "A-3 problem" is that of providing an avenue for new schools and for innovative or alternative institutions to operate without conforming to a model of traditional education, while also providing a method to assure the student consumer that the educational program meets some generally recognized standard of quality.

A. Background: The "A-3" Provision

The "A-3" provision⁶ was initiated in 1935 as part of the Government Code relating to filing articles of incorporation with the Secretary of State. The original purpose of this provision probably was to screen out financially weak degree-granting institutions (\$50,000 was a substantial amount of money in 1935)⁷ and to maintain a process for establishing postsecondary institutions independent of State control. In 1958, with the adoption of Division 21, the provision was "grandfathered" into the Education Code.

Since 1958, two important requirements have been added in an attempt to strengthen the "A-3" provision. All institutions must now file a "full disclosure" statement with the county recorder, with a copy forwarded to the Bureau of School Approvals in the Department of Education. This affidavit must describe

. . . the institutional objectives and proposed methods of achieving them, the curriculum, instruction, faculty (with qualification), physical facilities, administrative personnel, educational records, tuition and fee schedule, scholastic regulations, diplomas and degrees to be conferred, graduation requirements, and financial stability.⁸

5. The Council of Private Postsecondary Educational Institutions held hearings on the A-3 issue on October 1975, and many leaders of these institutions presented testimony in support of retaining the A-3 provision.
6. The phrase, "A-3" provision," is used here to mean the requirement of \$50,000 in real or personal property to establish a degree-granting institution.
7. According to the Consumer Price Index, \$50,000 in 1935 provided a purchasing power equal to \$12,748 in 1975. Accordingly, \$50,000 in 1935 is the approximate equivalent today of \$200,000.
8. Section 29023(a)(3) of Division 21 of the Education Code.

The Bureau of School Approvals files these affidavits but has no authority to assess their accuracy or to inspect the institutions. The reason for requiring the affidavit was to place it on the public record at the State and county level for public inspection.

The second requirement is for an annual affidavit to be filed with the Bureau of School Approvals setting forth the corporation's financial statement and information concerning the names and addresses of school officials and school locations. This affidavit, like the "full disclosure" statement, is not subject to verification and/or evaluation by the Bureau of School Approvals and appears to be for informational purposes only.

While the Bureau of School Approvals has virtually no responsibility for regulating A-3 schools, the Attorney General has the authority to verify the \$50,000 appraisal and its specific use for educational purposes. In 1959, the Attorney General issued a formal opinion on this matter, stating:

It seems clear that the Attorney General is to have the primary investigative responsibility under this article. . . the failure of a filing corporation in fact to own the requisite amount of property devoted to the specific use [of educational purposes] would constitute a failure by that corporation to comply with certain of the provisions of this article. It would, therefore, be a proper subject for investigation by the Attorney General.⁹

The Attorney General is authorized and required to investigate the truth of the affidavit and the accuracy of the appraisal filed under this subdivision.¹⁰

This opinion was written one year after the enactment of Division 21 and several years prior to the addition of the requirements for the "full disclosure" statement and annual affidavit. However, if the accuracy of the \$50,000 appraisal and its specific use for educational purposes are "proper subjects" for investigation as criteria for authorizing an institution, then so are the contents of the "full disclosure" statement and annual affidavit. This would, therefore, include verifying the institutional objectives and proposed methods of achieving them, physical facilities, degrees to be conferred, financial stability, etc. Any misrepresentation or

9. Opinion of the Attorney General, Vol. 34, No. 58-203, August 31, 1959, pp. 106-107.

10. Ibid., p. 99.

discrepancy (e.g., the lack of financial stability) would constitute a failure by the corporation to comply with the provisions of the statute.

If the corporation does not, in fact, own the requisite property devoted to the prescribed use, it would not qualify to issue diplomas (degrees) under the subdivision, and, for a like reason, would not qualify if the affidavit on its face failed to meet the statutory requirements.¹¹

While a legal basis does exist for limited governmental investigation of the operations of A-3 schools, there is in fact no existing process for doing so.¹² The Attorney General has not assigned the investigative responsibility for Division 21 activities to a position of high priority, and there is also a lack of agreement among the Attorney General's staff concerning their responsibility for investigating A-3 affidavits.¹³ Consequently, during 1975 there were no investigations of the accuracy of the various reports submitted by A-3 schools.

While there has been a gradual increase in the reporting requirements for the A-3 schools, and while the Bureau of School Approvals has the authority to accumulate considerable information concerning these institutions, there is *de facto* no State inspection, verification, or supervision of this large group of private degree-granting schools.

11. Ibid., p. 107.

12. Concerning the location of responsibility for legal questions arising in connection with Education Code Section 29023(a)(3), the Attorney General's office has argued that the

. . . rendering of legal advice re such questions shall be a function of the Department of Education's legal office. This includes questions regarding affidavits, inheritance tax appraisal, annual reports, full disclosure. If necessary, the Attorney General's investigative services shall be utilized. A school continuing after notice to operate without compliance (with Section 29023(a)(3)) shall be referred to the Attorney General for appropriate action.

Memorandum from Elizabeth Palmer, Office of the Attorney General, to Robert R. Coffman, State Department of Education, June 7, 1972.

13. Sheridan Brown, Office of the Attorney General, interview conducted by telephone, January 14, 1976.

B. Background--The "A-3" Schools

There are approximately 111 private degree-granting institutions currently operating under the "A-3" provision, and they provide considerable diversity in their educational philosophies, academic programs, and teaching methods.¹⁴ Organized by program, they can be distributed into the following classifications:

The Arts (Music, Art, etc.)	11
Religion	33
Teacher Training	3
Law	24
Technology	4
Ethnic and Foreign Studies	6
Psychology	6
Business	7
General Collegiate	16
Chiropractic	<u>1</u>
TOTAL	111

Nationwide there are approximately 1,600 private degree-granting institutions, with 15 percent of those in California. The number of A-3 institutions is highly significant since they constitute almost 50 percent of the private degree-granting institutions in California and almost 7 percent of those in the country.¹⁵ Their total student enrollment is relatively small, however: A-3 institutions represent approximately 6 percent of the total enrollment for credit in California private degree-granting institutions.¹⁶

The A-3 institutions also make an important contribution to the number of degrees awarded annually by private institutions in California. In 1974-75, for example, A-3 institutions awarded

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14. See Appendix T for a descriptive survey of the A-3 institutions. Factual information in this section concerning numbers of institutions and degrees awarded is approximated because of limited availability of data from the Bureau of School Approvals and incomplete information collection thus far by the Commission staff.
 15. The states with the next largest number of private institutions are Pennsylvania (160); New York (157); Indiana (130); Illinois (100); and Massachusetts (88). All of these states have comprehensive approval processes prior to the licensing of institutions.
 16. There were approximately 20,000 students enrolled in the 111 A-3 institutions in California in 1975-76, with an average enrollment of 180 students per institution.

approximately 6 percent of all bachelor's degrees, 8 percent of the master's degrees, and 10 percent of the doctoral degrees.¹⁷

The A-3 institutions make an important contribution to California private postsecondary education because of their diversity, their numbers, and the size and composition of their student body. However, the question remains as to whether this contribution is being maximized or minimized by the lack of public supervision of the integrity of degrees and the quality of educational program.

C. Arguments Against the "A-3" Provision

If one assumes that public officials and/or peer accrediting agencies ought to be involved in an approval process prior to the licensing of degree-granting institutions, then the current "A-3" provision clearly provides a loophole in the Education Code. Many agencies have called for the deletion or substantial amendment of the provision,¹⁸ and two legislative attempts have been made in the past five years to delete it.¹⁹ The critics of the A-3 provision offer three basic arguments:

1. Having \$50,000 in net assets is no guarantee of either financial stability or educational quality. While
-
17. This information is based upon an incomplete survey, in which reports have been submitted by 95 A-1 schools, 21 A-2 schools, and 54 A-3 schools.
 18. Among the agencies which have adopted this position have been the Superintendent of Public Instruction (Wilson Riles called for the elimination of the "A-3" provision, Los Angeles Times, March 28, 1975), the Council for Private Postsecondary Educational Institutions (passed a resolution supporting SB 913, May 27-28, 1975), the Bureau of School Approvals (former Bureau Chief Herbert Summers issued various statements in opposition to the "A-3" provision), the Coordinating Council for Higher Education (in their 1971 study of proprietary schools), the State Attorney General's office, and officials within the San Francisco office of the Federal Trade Commission. It should be noted that subsequent to the hearings on the A-3 issue as mentioned in footnote #5, the Council has revised its position to await the findings of the CPEC study. At its meeting on May 12-13, 1976, the Council noted "unanimously to support the principle of the position" argued on pages 98 through 101 of this report.
 19. Senator Rodda's 1971 bill, SB 1574, called for the possible elimination of the "A-3" provision and Senator Greene's SB 913 of the 1975 Legislature proposed to delete it entirely.

\$50,000 represented a significant resource in 1935, translating that figure to present dollar value would require four times that amount.²⁰ Moreover, regardless of the dollar amount necessary, there is no requirement in the current law that the property in question be in the State of California²¹ or that it be held for the duration of the licensure period. In effect, an institution may own \$50,000 in educational property (real or personal) in Maine, sell it one week after making the filing with the county recorder, and still be in compliance with Division 21 to issue any and all degrees.

While accepting the possible desirability of requiring an institution to possess a certain amount of net assets, it is questionable to equate this requirement with the protection of educational quality or the integrity of the degree. Poor programs and unearned degrees can be offered as frequently by large, high budgeted corporations as by small, low budgeted institutions.

2. Since the A-3 institutions exist free from any State inspection, verification, or evaluation, there is no way by which to assure the student consumer, or the potential employer of that student, that the educational program meets minimum standards of quality. According to Herbert Summers, former chief of the Bureau of School Approvals:

. . . there is no evaluation, there is no continued requirement of supervision. In fact, we are denied everything except the appraisal which they must file each year to establish that they are still operating. That is all. We never have the authority to determine whether they have \$50,000. We have no authority to close them.²²

20. See footnote #7 in this chapter.

21. West's Annual Education Code, Section 29023.

22. Testimony by Mr. Herbert Summers before the Senate Committee on Education, Interim hearing, October 20, 1969.

Further testimony supporting this point was provided by Deputy Attorney General William Goode, who noted:

. . . two specific instances where schools were rejected under Section 29025. They turned right around and filed under Section 29023(a)(3) and could theoretically issue degrees. In any case, they could go on conducting training without any state supervision at all . . . Their courses did not meet the minimum standards to get approval. They went ahead and filed the affidavit.²³

In addition, when the Bureau of School Approvals registers these institutions as authorized to grant degrees, students, employers, and governmental agencies in other states may be led to assume that the schools have been evaluated and approved by the State of California. The distinction between "authorized," "approved," and "accredited" is a technical one and difficult for educational and legal experts to explain and for the average student to understand.²⁴

The nature of the authorization which the A-3 institutions receive is not clearly understood, and consequently, frequent inquiry is made to State officials for further information.²⁵

23. Testimony by Mr. William Goode, Deputy Attorney General, before the Senate Committee on Education, Interim hearing, October 20, 1969.
24. Private degree-granting institutions authorized under Section 29023(a)(2) are "approved" by the Bureau of School Approvals, while those authorized under Section 29023(a)(3) are simply "registered" with the Bureau. The Education Code states that it is "unlawful for any corporation to expressly or impliedly represent, by any means whatsoever, that the State of California, the Superintendent of Public Instruction, the State Board of Education, or any division or bureau thereof has made any evaluation, recognition, accreditation, approval, or endorsement of the course of study."
25. "This bureau is in constant receipt of inquiries from agencies, organizations, and schools as to the quality or value of a degree received from a corporation issuing such a document under Education Code 29023(a)(3)." Testimony by Mr. Herbert Summers before the Council for Private Postsecondary Educational Institutions, March 1975.

3. The current "A-3" provision allows for the existence of so-called "degree mills," which either sell degrees for a profit, irrespective of the purchaser's educational knowledge or ability, or require minimal academic work for the receipt of higher academic degrees. While there is no clear evidence that "degree mills" are now operating in California, the perception has developed that lower academic standards exist in A-3 institutions.²⁶ The following evidence and statements have been used to support this perception:

- a. Several officials contacted in our national survey on the regulation of private postsecondary education expressed negative comment concerning their recent experiences with what they viewed as California-based degree mills attempting to operate in their state.²⁷
- b. The integrity of the degree is being reduced by the issuance of bachelor's, master's, and doctoral degrees of questionable quality.
- c. "Students" of degree mills rarely, if ever, complain to state authorities. The parody of "earning" a degree through a degree mill may be an offense to society, but rarely a fraud against the recipient, as is demonstrated by the following:

Those willing to exchange their check (sometimes for hundreds of dollars) for an ornamented piece of imitation parchment typify the satisfied customer: He knows what he wants; he pays what he apparently regards as a reasonable fee for it; he gets what he pays for. What happens after plain

- 26. In preparing this report, Commission staff has not attempted to evaluate the quality of the academic program at any degree-granting institution. Therefore, the staff has no basis on which to judge the quality of academic standards in the A-1, A-2, or A-3 institutions.
- 27. Of particular importance were the comments of Dr. David Stucki, Education Approval Board, Wisconsin; Dr. Warren Evans, Department of Education, Pennsylvania; and Dr. John Leslie, Department of Education, New York.

old Mr. Arriviste has paid his money and becomes, thanks to the magic of his mail order diploma, Dr. Arriviste? Sometimes nothing at all, because he loses his nerve, has the grace to become embarrassed, or does not want to risk being questioned. Alternatively, however, if he is a teacher, he may ask his school district for an increase in salary; if a marriage counselor (not subject to licensing in most states) he may inspire misplaced confidence among his customers (who now probably are termed "clients" or even "patients"). All this simply on the strength of a piece of paper.²⁸

The arguments against the "A-3" provision reflect the fact that this method for establishing a degree-granting institution does provide an opening for unethical, profit-motivated individuals to establish and operate the facade of an educational institution with only limited risk of governmental supervision and regulation. The current law must be changed if the existence of this loophole is to be eliminated.

D. Arguments for the "A-3" Provision

Despite frequent criticism, the "A-3" provision offers several positive features which contribute to the strength of postsecondary education in California. It is important in responding to the foregoing criticisms and the weaknesses of the provision that these contributions be retained and promoted. These contributions include the following:

1. The "A-3" provision provides the only method by which a new degree-granting institution can be established in California. Since an institution cannot be accredited prior to a minimum period of successful operation, this provision is the only way for new schools to be started prior to receiving either accreditation ("A-1" provision) or approval from the Bureau of School Approvals (the "A-2" provision).²⁹

28. George Arnstein, "Ph.D., Anyone?" American Education, July 1974, p. 10.

29. For examples of A-3 institutions which are currently candidates for accreditation, see (1) New College of California (formed in 1971 and now a WASC candidate); (2) Degawinadah-Quetzalcoatl University (D-Q) (formed in 1971 and now a WASC candidate), and (3) California Institute of Asian Studies (formed in 1968 and now a WASC candidate).

2. The "A-3" provision offers an open door through which innovative, experimental, and/or alternative schools can be established without having to conform to a traditionally accepted model of an educational program. Many of the A-3 schools exist because people want to do something different in education from what now occurs in the more traditional public and private institutions. The "A-3" provision provides a major avenue for experimentation.³⁰
3. The largest group of A-3 institutions are the religious colleges. The "A-3" provision allows a clear separation of Church and State providing the institution the freedom to offer general education programs without interference from the government.³¹
4. The A-3 schools provide access to college for students who might otherwise not attend an accredited or a State-approved institution. There are several colleges with programs oriented specifically to the needs of ethnic minorities,³² and these programs provide access because they fulfill a unique need. The several religious institutions also provide unique educational opportunities, attracting students because of the character of their educational program.

30. For examples of A-3 institutions which offer innovative, experimental and/or alternative programs, see Common College (Woodside); International Community College (Los Angeles); College of Oriental Studies (Los Angeles); and Guild Law School (Los Angeles).

31. Religious institutions are exempt from Division 21 if their course instruction "is limited to instructions in the principles of that church or denomination" and if they grant only diplomas as "evidence of completion of that course." (Section 29020 of Division 21) If religious institutions offer instruction in any areas of general education and/or grant degrees, they must conform to the provisions of Division 21.

32. See, for example, Nairobi College, Degawinadah-Quetzalcoatl University (D-Q), Colegio de la Tierra, and Guild Law School.

E. Conclusions

In assessing the "A-3" provision and evaluating the institutions registered to operate under that provision, it is important to consider the needs of the public both to maintain the integrity of academic degrees and to provide a legal environment supportive of alternative educational programs. Based upon the preceding analysis, Commission staff offers the following conclusions concerning A-3 institutions:

1. The large majority of A-3 institutions are clearly providing the kind of educational program they say they are. There is reasonable evidence to conclude that none of the presently operating A-3 institutions are engaged in consumer fraud.
2. There is evidence that some former A-3 institutions were engaged in unethical behavior. The frequency of this behavior among A-3 institutions as a group does not seem to have been any higher than that among other groups of degree- and nondegree-granting institutions regulated by the Bureau of School Approvals.
3. The concept of the "A-3" provision as an open door for innovative alternative schools should be retained as it provides an important vehicle for change in California postsecondary education.
4. The function of the "A-3" provision as a method for allowing religious schools to operate without State interference should be retained as it provides an important alternative to secular education.
5. Although there is no present evidence of serious abuses, the current A-3 provision contains loopholes which would allow unethical, unscrupulous operators to establish schools and operate them against the public interest. These loopholes should be eliminated.

F. Recommendations

Given the dual conclusion that the "A-3" provision meets some important educational needs in California while also containing some loopholes which potentially allow unscrupulous behavior against the public interest, it is important for this section of Division 21 to be revised

and improved but not eliminated. These revisions, as recommended below, are based upon the following presumptions:

1. The "full disclosure" requirement for A-3 institutions should be considered the major element in each institution's application for authorization to operate. Rather than emphasizing the \$50,000 in assets, the licensing agency should give primary consideration to the "full disclosure" statement, requiring that this statement be complete and up-to-date.³³ Moreover, the information contained in the statement should be made available to the student;
 2. The requirement to maintain \$50,000 in assets to be used for purposes of education should be retained as it provides for a demonstrated financial commitment to the educational program by those individuals operating the institution. The assets also provide financial resources to cover contractual agreements with students and faculty, if the institution should close in mid-term. If this requirement to maintain \$50,000 in assets was eliminated, it would be possible to open a new school without the commitment of any financial resources. If the financial requirement were increased to \$150,000 or \$200,000, it would be too strict, making it extremely difficult to establish a new institution. The \$50,000 in assets should, therefore, be retained as a balanced method of providing both financial commitment and financial stability;³⁴
-
33. Many of the A-3 institutions currently authorized to operate by the Bureau have not filed "full disclosure" statements. Many of the statements which are on file with the Bureau are not complete and up-to-date.
 34. In the case of new small alternative schools, the \$50,000 in assets usually consists of educational materials such as books, mobile trailers, and other similar equipment. Under the recommendations offered below, prior to receiving authority to begin their educational program, the burden will be placed upon the school leaders to accumulate at least this minimum level of educational materials. If this minimum level was increased, to \$150,000 for example, small institutions would have considerable difficulty getting started. To illustrate, existing institutions such as University Without Walls, Universidad de Campesinos Libres, and Nairobi College would not have been able to open if they were initially required to establish \$150,000 in assets.

3. The constitutional separation of Church and State should be maintained so that religious-oriented schools can operate without State interference, provided that they meet the minimum standards of full disclosure to both the public and the student; and
4. It should be possible to begin a new degree-granting institution under both the "A-3" provision and the "A-2" (State approval) provision. The alternative should be available so that individuals can seek State approval immediately, rather than being required to operate for a period of time under the "A-3" provision.

Based upon these conclusions and presumptions, the staff recommends the revisions to Section 29023(a)(3) of Division 21:

Recommendation 1:

To receive authorization to establish an educational institution, a corporation should be required to have \$50,000 in total net worth, to be used exclusively for the purposes of education. These assets may include such resources as educational facilities, library resources, and instructional materials, but may not include other personal property not used directly and exclusively by the institution for the purpose of education. A financial statement certified by a certified public accountant should be required when application is made for degree-granting authorization, and prior to each three-year visit. These assets are to be retained in California for as long as the school is licensed to operate.

Comment: This recommendation makes three changes in the current statute: (1) it eliminates the loophole allowing the property to be maintained outside the State of California; (2) it eliminates the loophole allowing the property to be sold after the institution is licensed; and (3) the property value is to be appraised by a certified public accountant rather than by a State inheritance tax appraiser.

Recommendation 2:

The institution will not be authorized to begin operation until after verification of the "full disclosure" statement which each institution is now required to submit. The verification process will involve a visit to the proposed campus by a three-member team consisting of a staff member of the California Postsecondary Education Commission, a representative from the licensing agency (currently the Bureau of School Approvals), and a representative

selected by but not affiliated with the institution to be visited. The sole purpose of the visit is to verify the accuracy of the "full disclosure" statement.³⁵ No attempt shall be made to evaluate the quality and the educational objectives and methods of the institution. The visitation will verify that the institution has been accurate and honest in preparing the "full disclosure" statement. Within 30 days after the statement has been verified, the institution will be authorized to grant degrees. The verification visit must be made within 60 days of application by the institution. The expenses for the visitation team will be funded through the operating budget of the licensing agency.³⁶

Recommendation 3:

Institutions which begin operating under Section 29023(a)(3) will receive a temporary one-year authorization. Within eleven months following the start of operations, a second visitation will be conducted by a similarly constituted team to verify the continued accuracy of the "full disclosure" statement. After this second verification has been completed, the institution will receive a three-year authorization, to be renewed every third year thereafter by a similar process.

Recommendation 4:

If, as a result of the verification visit, the "full disclosure" statement is determined to be inaccurate, attempts will be made by the appropriate staff to assist the institution in correcting the statement. If no agreement can be reached, an appeal can be made by the institution to a full meeting of the authorizing agency.

Recommendation 5:

All institutions currently operating under Section 29023(a)(3) will undergo a similar verification process and visitation within 36 months following the implementation of this recommendation into law.

35. As discussed above, the "full disclosure" statement is to describe "the institutional objectives and proposed methods of achieving them, the curriculum, instruction, faculty (with qualification), physical facilities, administrative personnel, educational records, tuition and fee schedule, scholastic regulations, diplomas and degrees to be conferred, graduation requirements and financial stability."

36. All A-3 institutions are currently required to pay an initial three-hundred dollar (\$300) fee when they file the "full disclosure" statement. This fee could be used to pay the expenses of the visitation team.

Prior to this visitation, the institutions may continue to operate under existing law; following verification, the institution may receive a three-year license, to be renewed every third year thereafter by a similar process.

Recommendation 6:

Section 29023(a)(2) of Division 21 should be revised so that the State licensing agency may grant provisional approval to new degree-granting institutions. This change would provide institutions the alternative to open with either State approval (A-2 status) or State authorization (A-3 status).

VI. CONSUMER PROTECTION ISSUES

There are several important areas in which Division 21 does not offer sufficient protection to the student consumer of private postsecondary education. As discussed in an earlier section, the California Education Code does not include many of the consumer-protection provisions now found in the laws of most other states. The legislative intent of Division 21 does not address the need for the protection, education, and welfare of California's educational consumers by establishing minimum standards of quality, ethical practices, and fiscal responsibility.¹ There is evidence that problems of insufficient consumer protection for students in private postsecondary education do exist in California.

In his testimony before the Federal Trade Commission, the U.S. Commissioner of Education concisely summarized the problems both in California and nationwide.

. . . the vast majority of postsecondary schools and programs are doing an honorable job of serving the Nation. However, a number of common malpractices have been identified in a relatively small number of schools. They are found not only in proprietary (private, for-profit) institutions but also in public and private nonprofit institutions. These malpractices include:

- (1) misleading and inaccurate advertising;
- (2) indiscriminate and overly aggressive recruiting;
- (3) lack of full disclosure of salient institutional characteristics and information needed by the student consumer;
- (4) inferior facilities, course offerings, and staff;
- (5) false promises of job placement and earning opportunities; and

1. Wording of this nature is included in the "Model State Legislation" of the Education Commission of the States, June 1973.

- (6) inadequate refund policies (or failure to abide by stated policies).²

During the past two years, these same complaints were made to the Federal Trade Commission in testimony relating to its study of private postsecondary education.³ Consumer Action, a San Francisco-based

2. Bell, T. H., Statement concerning the proposed trade regulation rule of the Federal Trade Commission on advertising, disclosure, cooling off and refund requirements concerning proprietary vocational and home study schools. Prepared statement. Washington, D.C., December 16, 1974, as quoted in Consumer Protection Strategies: A Literature Review and Synthesis, by Carolyn B. Halliwell.
3. Staff of the California Postsecondary Education Commission compiled a listing of the complaints on record in the San Francisco office of the Federal Trade Commission. These complaints were forwarded to the Federal Trade Commission from the U.S. Office of Education and regarded only California schools. Generally, no response to the complaints was forthcoming, except occasional replies by USOE stating that the matter was not within its regulatory authority or that it was a matter between the student and the school or between the student and the lending institution. An example of one such response was from R. L. Mappus, Senior Program Officer, Guaranteed Student Loans, Office of Education:

It is unfortunate that conditions caused [name omitted] School of Business to discontinue operations. The Federal Government is interested and concerned that students receive full value and fair treatment for all participants of the program. However, our authority to take action is limited to violations of federal law, rules, and regulations. While we appreciate your situation, we are unable to absolve a student/borrower of his obligation to repay in the rare instance where loan funds are invested in a school which fails to perform its enrollment contract.

Also available for review at the FTC offices are two additional folders of complaints: one consisting of complaints received directly by the FTC San Francisco office; the other of letters received by the Washington office concerning complaints from residents of the Western Region (90% of whom appeared to be California residents).

consumer advocacy group, also identified similar problems in its testimony before the Federal Trade Commission in December 1975.⁴

A. Seven Problem Areas in Consumer Protection

There are seven particular areas of private postsecondary education in which consumer-protection regulations need strengthening:

1. The lack of consideration given the student attending a school which closes in mid-term, depriving the student of either a tuition refund or the education contracted for, or both;
2. The current minimum refund policy which provides an advantage to a school, giving it claim to a student's full tuition after having completed only 25 percent of its contractual obligation;
3. Hard-sell techniques used by commissioned salespeople who often take advantage of the prospective vocational student;
4. The lack of an effective procedure for handling student complaints;
5. The lack of a requirement for the permanent maintenance of student records;
6. The current disclosure provision for nondegree-granting institutions which requires only a statement of the total financial obligation a student will incur upon enrollment; and
7. The fact that unlicensed schools occasionally begin operations, advertise, and enroll students without the State regulatory agency being aware of their existence.

Each of these problems will be discussed in detail, with recommendations offered as to the most effective method of developing the needed consumer-protection regulation.

4. See, in particular, the testimony of Karen Tomovick of Consumer Action and her analysis of 97 complaints from individuals in the San Francisco Bay Area.

Problem 1: School Closure in Mid-Term

One of the most obvious consumer abuses occurs when an institution closes in mid-term without fulfilling its obligation to provide contracted or agreed upon educational services to its students. Private schools collect large sums of money in prepaid tuition at the beginning of each term. In California there are presently no safeguards to insure that the student's money will be used on a proportional basis until the completion of the program. As a result, schools have closed in mid-term with students not having completed courses and the school unable to refund tuition.

The only recourse currently available to the student when an institution closes in mid-term is through a court of law. In addition to being an expensive and time-consuming process, it most frequently becomes no recourse as evident when the reasons why schools close in mid-term are examined. A financially stable institution will not close in mid-term; a bankrupt or insolvent school will. A legitimate institution will not close mid-term without refunding tuition and fees; a dishonest, profiteering one will. A bankrupt or insolvent institution clearly will not be in a position to repay its students. In bankruptcy proceedings, students are classified as unsecured creditors and, as such, have last crack at the remaining assets. When the owners have disappeared, often going to another state, the student who goes to court usually receives an uncollectable judgment. If the student borrowed the tuition from the federal government or a private lending firm, the lender proceeds to demand repayment even though the full training was never received due to institutional closure. The lender argues that the student made an "unwise decision" in enrolling in an institution that was about to collapse. The student must repay or default, and, thereby, have his/her credit rating appropriately noted.

The burden of selecting a school that is financially stable as against one that is not should not be placed on the student. The State of California authorizes all private vocational/technical institutions to operate and offer classes to students; therefore, it has the responsibility for determining the financial stability of these institutions.⁵ Nevertheless, schools authorized under Division 21 continue to close at a high rate, many of them in mid-term.⁶

5. The following is a listing of the types of institutions which discontinued operations during 1975. This list was compiled from the Bureau of School Approvals' "Summary of Activities" (Footnote continued on next page.)
6. A partial list of major schools which closed mid-term in recent years includes: West Coast Trade Schools, Telco, Riverside (Footnote continued on next page.)

Other states have regulations to protect the student against loss of tuition in the event a school closes. The most common form of protection is surety bonding. Private institutions are required to

5. for that period. Since only the institution's name is given in the Summary, each was placed in the category most closely corresponding to the name. Many schools (16) could not be classified because the name contained no identifying words.

Real Estate	29
Tax	16
Aviation	12
Business	11
Massage	11
Medical	9
Fashion & Beauty	8
Contracting/Construction	4
Psychology	3
Fine Arts/Arts & Crafts	3
Travel	2
Computer	2
Pet Grooming	2
Religion	1
Professional Review	1
Miscellaneous Vocational*	28
Unable to Identify	16

TOTAL 158

* Such as schools for locksmithing, silversmithing, apartment/motel managers, auto repair, animal control, screen printing, cocktail waitresses, investigative agents, oceanography, transcendental meditation, Montessori, etc.

The figures indicate that real estate and tax schools make up a large portion (28%) of the 158 school closures, but not a majority. The bulk of the closures appear to be in the typical private vocational schools falling under Division 21, i.e., business, medical, contracting/construction, and miscellaneous vocational.

6. University, Career Enterprises, Blair, California Professional Schools, Willis Business Schools, and Cyberdynamics Computer School. More recently, a report from the Bureau of School Approvals indicated that during the period from January 1, 1976 through February 20, 1976 18 schools closed. Teach-outs were arranged for students from seven of the schools with information unavailable about the remaining schools. See Bureau of School Approvals' report to the Council for Private Postsecondary Educational Institutions, March 10, 1976.

post a financial surety bond prior to opening in 37 of the 48 states which regulate private institutions. The exact amount of the bond varies, ranging from \$2,500 in Oregon to \$50,000 in Iowa. Both the ECS' Model State Legislation and the Postsecondary Education Consumer Protection Act of 1975 recommend surety bonding as the best form of consumer-protection.

The purpose in bonding private educational institutions is two-fold: (1) to screen out financially unstable institutions; and (2) to provide refunds to students if an institution closes in mid-term. Organizations required to post surety bonds in California include schools of cosmetology, employment agencies, farm labor contractors, automobile dealers, and contractors.

While bonding is used in many states, it presents two major drawbacks: (1) it is difficult for most small schools to secure bonds since bonding companies require that schools possess net assets equal to several times the size of the bond; and (2) when large schools close in mid-term, bonding provides for only a portion of the money required to reimburse students' tuition.

The argument against surety bonding is based upon two surveys. The first survey, which was described in a previous section, focused on 16 states, in which telephone interviews were conducted with the chief administrators of the state agencies responsible for regulating private institutions. Only 6 of the 15 states which require bonding believed it to be a full monetary remedy for students, or an effective method for screening out inadequate or financially unstable institutions prior to licensing. The three largest states in the survey--New York, Pennsylvania, and Texas--expressed dissatisfaction with bonding because of the high cost of bonds, the tightening bond market, and the inadequacy of bonds to cover the costs associated with school closures.

New York, dissatisfied with its bonding system (companies will not bond an institution for more than \$20,000), is attempting to establish a statewide insurance policy covering all institutions. After more than a year of planning and negotiations with private insurance companies, only one has developed a sample policy.⁷ Although the details of the policy are not final, it appears that each institution will be assessed a charge per student based on the amount of tuition and the length of the course of study. The charge will range from \$2 to \$20 per student. The company will pay all valid claims of students for tuition losses resulting from school fraud or closure. Presently, the company intends to place a \$100,000 ceiling on claims against a single institution.⁸

7. Dr. John Leslie, Director, Department of Education, New York, in February 1976 telephone interview.

8. Ibid.

CHART A

A TEN COMPANY SURVEY OF THE FEASIBILITY OF SURETY BONDING FOR PRIVATE POSTSECONDARY INSTITUTIONS IN CALIFORNIA

	<u>Willingness to Provide Bond</u>	<u>Basic Underwriting Standards; Prerequi- sites to Acceptance</u>	<u>Approximate Rate Per \$1,000 of Bond Limit</u>	<u>Maximum Limit</u>
Four largest bonding companies in the United States doing business in California:				
United States Fire & Guaranty	Yes	Standard*	1 to 2%	Dependent Upon Net Worth
Fidelity & Deposit.	Yes	Standard	2%	No Limit
Aetna C & S	Yes	Standard	2 to 5%	Dependent Upon Net Worth
Travelers	Yes	Standard	2 to 3%	No Limit
Four companies in top ten of California insurers:				
Fireman's Fund	Yes	Standard	2%	\$50,000
Continental	No	N/A	N/A	N/A
INA**	---	---	---	---
United Pacific	Yes	Standard	2%	No Limit
Two large bond specialty markets in California:				
Insco	Yes	Standard	5%	\$25,000 (possibly higher)
Market Services	Yes	Standard	7%	\$10,000

* Standard underwriting requirements include obtaining the financial statement, a credit check of the individual owners, a history of the institution and its management, and evaluating the institution's net worth.

** Reply not yet received.

--Compiled by California Postsecondary Education Commission, February 1976.

A survey was also conducted of ten major bonding companies doing business in California, the results of which are summarized in Chart A. Of the eight companies which stated they would provide such bonding, six would require that schools have net assets equal to ten times the limit of the bond. The remaining two companies would not require a specific amount of assets but would impose rates 150 to 350 percent higher than those charged in the standard markets.

Bonding is not the most effective method of responding to the problem of school closures. It is the responsibility of the State, not that of a private bonding company, to screen out financially unstable schools. Because educational institutions are not as heavily capitalized as other businesses, they would have difficulty in obtaining bonding at a reasonable cost. Most bonding arrangements would be inadequate to provide full restitution to all students, unless the school were extremely small. In school closures comparable to those of Riverside University and West Coast Trade Schools, students would receive only a small fraction of their tuition dollar.

Recommendation 1: A Statewide Student Indemnification Plan

The agency responsible for regulating private postsecondary education in California should develop a statewide student indemnification plan. Those responsible for developing this plan should consider three alternative methods of implementation, which are presented below in order of preference.⁹

- a. A statewide pool to be funded by institutional assessments based on the number of students and gross annual tuition.

The assessments would be collected by the regulatory agency at the time annual fees are paid. Nonpayment would result in withdrawal or denial of an institution's authorization to operate.

-
9. This plan would include all private institutions except those with sufficient net capital assets to provide a means for full restitution to all students in the event of school closure. It is expected that most private institutions in the A-1 category and some of the accredited nondegree-granting institutions would meet this provision.

The Council for Private Postsecondary Educational Institutions has contracted for a complete study of this issue, and it expects to report to the Legislature in January 1977.

A private insurance company would be contracted to administer the fund, including investing its assets, paying losses, and keeping records. One company contacted indicated its willingness to administer such a fund for a service charge of 15 percent of the total amount of the fund. If the fund were to reach a predetermined figure, subsequent annual assessments could be lowered. If loss payments exceeded the amount of the fund, assessments would be increased.

- b. A statewide tuition-refund insurance policy secured by the State through a private company (similar to the New York proposal).

The company, selected by the State, would determine rates to be charged per student, collect the premiums, and pay student claims subject to the terms of the contract. New York projects that the company will use the money collected in the following manner:¹⁰

60%	Payment of Student Claims
30	Insurance Company Expense
10	Insurance Company Profit
100%	

The cost per student (from \$2 to \$20) is purely speculative, since insurance rates are based upon past claims experience and, in this case, there has never been similar coverage. The rates will be adjusted, upwards or downwards, after two or three years' experience. The \$100,000 maximum coverage would be inadequate in the case of large schools such as West Coast Trade Schools or Riverside University.

- c. A State-administered student tuition indemnification fund.

This approach would require that a State agency assume all the functions of an insurance company. The difficulty of this concept is illustrated by the opposition generated by the proposed state medical malpractice pool. New York State discarded this approach because of its financial

10. Ibid.

difficulties and the political problems involved in the state performing a function normally assigned to the private sector.

Problem 2: Limited Tuition-Refund Provision

Under California statutes, a student who has completed at least 25 percent of a vocational training course has no legal claim to a tuition refund. This refund policy is the source of many consumer complaints, since a school need only provide the first quarter of a training program to fully earn 100 percent of the student's tuition.

Compared to the refund policy of the major accrediting commissions for private vocational schools, California's policy does not reflect the needs of the student consumer. Both the National Association of Trade and Technical Schools and the Association of Independent Colleges and Schools require, as a minimum, that students receive refunds until they have completed over 50 percent of the course. Private and public degree-granting schools vary considerably in their refund provisions; most are less oriented toward the needs of the student than are accredited nondegree-granting private schools. To illustrate, the refund policies of Golden Gate University, University of Southern California, La Verne College, Pepperdine University, and California State University in Sacramento are shown below.¹¹ There is a need for greater uniformity in minimum refund provisions so that students receive equal treatment in all postsecondary institutions.

<u>Catalog Date</u>	<u>Institution</u>	<u>Amount of Course Completed</u>	<u>School Retains</u>	<u>Student Receives</u>
76-77	Golden Gate University (quarter system)	1st week	20%	80%
		2nd week	30%	70%
		3rd week	40%	60%
		4th week	50%	50%
		after 4th	100%	0%
75-76	University of Southern California (semester system)	1st week	0%	100%
		2nd week	25%	75%
		3rd week	50%	50%
		4th week	100%	0%

11. The University of California (at Berkeley, Santa Barbara, Davis, and Santa Cruz) does not list a refund policy in the catalog given to students.

<u>Catalog Date</u>	<u>Institution</u>	<u>Amount of Course Completed</u>	<u>School Retains</u>	<u>Student Receives</u>
75-76	La Verne College	1st week	\$100	(all but \$100 returned)
	(semester system)	2-17 weeks	refund on pro rata basis	
75-76	Pepperdine University	1st week	25%	75%
		2nd week	25%	75%
		3rd week	50%	50%
	(trimester system)	4th week	75%	25%
		after 4th	100%	0%
75-76	California State University, Sacramento	1st week	0%	100%
		2nd week	25%	75%
		3rd week	50%	50%
		4th week	75%	25%
		after 4th	100%	0%
	(semester system)			

Recommendation 2: An Expanded Tuition-Refund Policy

The following refund policy should be enacted immediately as part of the Administration Code.¹²

An institution subject to the provisions of Division 21 shall establish and maintain a policy providing for the refund of unused portions of tuition, fees, and other charges in the event the student fails to enter the course, withdraws, or is discontinued therefrom at any time prior to completion of such course, in accordance with the following standards:

- (1) An institution must provide for a full refund of all monies paid by a student if: (a) the student cancels the contract within six working days following signature by delivering in person or via registered mail written notice thereof to the institution, provided

12. It is the Commission's recommendation that this revised refund schedule should apply to all private institutions currently affected by the existing refund schedule, and that this revised refund schedule should not apply to any private institutions not currently under the existing State minimum refund policy. A comparison of this proposed refund schedule with that currently administered by the Department of Education is provided in Appendix U.

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the student has not attended classes;
(b) the student's enrollment was procured as a result of any misrepresentation in a school's advertising, promotional material, or agent's representations.

- (2) An institution must provide for a partial refund policy in accordance with the following: (a) if a student formally withdraws prior to completing 51 percent of the course (at vocational schools) or academic program (at degree-granting schools), the institution shall refund an amount of the total contract price in direct proportion to the amount of the course or program completed, less a registration fee of 10 percent of the total contract price, but not to exceed \$75;¹³ (b) the last date of termination for refund purposes shall be the earliest of the following:

- The last date of attendance if the student is terminated by the school;
- The date of receipt of written notice of withdrawal from the student;
- Ten schooldays following the last date of attendance;

(c) for courses longer than one year (12 calendar months), 100 percent of the

13. The recommended refund schedule shall involve the following:

<u>Course Completed</u>	<u>Refund*</u>
5%	95%
10%	90%
20%	80%
30%	70%
40%	60%
50%	50%
51%	0%

* Less Registration Fee

stated price of the course attributable to the period beyond the first year shall be refunded if the student formally withdraws during the first year.

- (3) Refunds shall be returned to the student within 15 days after receipt of written request or termination by the institution.

Problem 3: "Hard-Sell" Techniques by Commissioned Salespeople

Some private vocational/technical schools employ commissioned salespeople to recruit students. While most of these salespeople are ethical in their dealings (i.e., provide accurate information to prospective students concerning the educational program and tuition charges), there is evidence that some employ "hard-sell" or "boiler room" techniques. Salespeople of this type are not concerned with the prospective student's aptitude, motivation, or ability to benefit from the educational program. Contracts are frequently signed in a student's home before he or she has visited the campus or acquired detailed information about the educational program.

Currently, there are no provisions in the Administrative Code to protect the student from this type of sales pressure, other than providing a three-day cooling-off period during which the student can cancel the contract. The students most susceptible to this approach are those with limited formal education and low incomes.¹⁴

14. As was indicated in the Federal Trade Commission hearings on private vocational/technical schools in San Francisco in December 1975, the students most susceptible to a "hard-sell" from a commissioned salesperson are those from low-income, limited formal education, ethnic minority background. Karen Tomovick of Consumer Action testified that 64 percent of the complainants

. . . have had no education past high school, and 33 percent have had some postsecondary education. Third-world persons comprise a third of the complaints.

At time of enrollment students are typically unemployed or hold a low-paying job with low prospects; no one said they had a job with a good salary, status, and a promising future. The usual reason given for taking a vocational course was to obtain a better job with more money.
(Footnote continued on next page.)

Students with this background are most unlikely to utilize the three-day "cooling-off" period to gather more information about the school and/or to reassess their financial ability to meet contracted obligations.

Recommendation 3: Extended Cooling-Off Period

If a student signs a contract away from the campus and prior to visiting the campus, the terms of the contract should not be binding until the student makes his/her initial visit.¹⁵ The student is obligated to visit the campus at least six days prior to the beginning of classes. The school would be obligated to provide a thorough tour of campus facilities and to place a written statement, signed by the student, in the student's file verifying that the visit was made and a campus tour provided. Following the campus visit, the student should have a "cooling-off" period of six days during which to cancel the contract, with no money to be retained by the school (as provided in Recommendation 2 above). If the student does not visit the campus after signing the contract, the "cooling-off" period will automatically begin six days prior to the start of classes.

Problem 4: Ineffective Procedure for Handling Student Complaints

There currently is no consistent, effective procedure for handling student complaints concerning private postsecondary institutions. Letters of complaint can be sent to a myriad of agencies, none of which coordinate its activities with those of other agencies empowered to respond to legitimate student complaints.

14. The financial position of these students is not usually strong. At least a third of them had their training financed by such programs as Federally Insured Student Loans, Veterans Administration and GI Bill programs, National Direct Student Loans, CETA, WIN, and Vocational Rehabilitation, besides BEOG funding. As corollary, at least 14 students are presently in default of their loans, and those who are unemployed are in danger of going into default. Fifty-four percent of the complainants were unemployed at the time of interview.
15. This recommendation would apply only in those situations when the student begins payment on tuition charges (beyond the registration fee) prior to arriving at the campus.

There are approximately eight different agencies which have some degree of responsibility for regulating private vocational schools in California: the Bureau of School Approvals, the Office of the Attorney General, various licensing boards and bureaus in the State Department of Consumer Affairs, the Council on Private Post-secondary Educational Institutions, the Federal Trade Commission, the U.S. Department of Health, Education, and Welfare, and the several private accrediting agencies. There is little apparent coordination between and among these agencies. As a result, "students in similar courses [are] subject to varying degrees of regulation depending more on whim and confusion than evidence of rational decision-making."¹⁶

An illustration of this confusion is provided by students enrolled in a cosmetology course. Complaints from students receiving veterans' benefits are processed by the Bureau of School Approvals. Complaints of students who are enrolled in the same course at the same school, but who are paying their own tuition, are handled by the Board of Cosmetology in the Department of Consumer Affairs. There is no evidence that the two agencies exchange information about these complaints or follow a common procedure for resolving them.

The Bureau of School Approvals and the Office of the Attorney General are the two State agencies primarily responsible for the administration and enforcement of Division 21. As discussed in a previous section, these two agencies do not share a common perception of their respective responsibilities; consequently, follow-up on legitimate student complaints is often inconsistent or ineffective, or both.¹⁷

16. Testimony by Kenneth McEldowney, a staff member of Consumer Action, before the Federal Trade Commission at hearings on private vocational schools heard in December 1975 in San Francisco.

17. In his testimony before the Federal Trade Commission, Mr. McEldowney offered evidence that

. . . in an interview with a Staff Systems Analyst in the Attorney General's Sacramento office, Consumer Action was told that vocational school complaints are either sent to the AG's division of Consumer Fraud, or to the Bureau of School Approvals, or referred to the school in question, or tabulated for trend statistics. Further, Consumer Action was told there was no set procedure to determine what was done with a given letter. Talks with other AG personnel in Sacramento and San Francisco only added to the confusion
(Footnote continued on next page.)

Recommendation 4: Centralized Processing of Complaints

All complaints concerning private institutions should be handled by the State agency responsible for regulating this segment of post-secondary education.¹⁸ This agency should also follow-up on all complaints submitted or referred to other agencies such as accrediting groups and the various licensure boards in the Department of Consumer Affairs. Records should be kept of all complaints received and their subsequent disposition as a basis for discerning patterns in student complaints and for responding to evidence of unethical and/or illegal school practices.

Problem 5: Retention of Student Records

Division 21 does not require that permanent student records be retained by either an institution or the Bureau of School Approvals. Consequently, students have no assurance that, at a future date, they will be able to obtain proof of their enrollment, completion of courses, and/or graduation--information which might be required for employment or other purposes.

Currently, the State requires private institutions to retain student records for only three years. However, if an institution closes, there are no provisions for retaining its records, and all former students will have difficulty documenting their attendance at that institution. The same problem would occur if an institution chose not to retain student records beyond the required three-year period.

Recommendation 5: Permanent Retention of Records

Any private institution which issues or confers degrees or diplomas, including honorary degrees or diplomas, should maintain current records for a minimum of five years at its principle place of business within the State of California. If the institution does not

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17. as they mentioned yet other offices which received or referred vocational school complaints. Further, one Deputy Attorney General admitted that there is no procedure set up to determine what was done with any given complaint or whether anything was done at all.

Ibid.

18. This State agency currently is the Bureau of School Approvals. As recommended in a previous section of this report, the Bureau's regulatory responsibilities should be transferred to the Council on Private Postsecondary Educational Institutions.

have facilities to keep such records for more than five years, earlier records should be forwarded to the State regulatory agency for storage. In the event a school closes, all student records should be deposited with the State agency for permanent storage.

Student records should include the following information: (1) the name and address, both local and home, including city and street, of each student; (2) the names and addresses, including city and street, of its faculty, together with a record of the educational qualifications of each; and (3) the degrees or diplomas and honorary degrees and honorary diplomas granted, to whom granted, the date of granting, together with the curricula upon which the diplomas and degrees were based.

Problem 6: Limited Disclosure to Students

The current disclosure provision for nondegree-granting institutions requires only that the student be provided a statement of the total financial obligation that will be incurred upon enrollment. Student consumers are entitled to more comprehensive information before undertaking an expensive and lengthy training program.

The purpose of providing such information to prospective students is to assist them in making sound choices from among the alternatives available to them in postsecondary education. The information, to be usable by the student, must be comparable among institutions (both private and public) as well as being accurate and understandable to the student. It serves little purpose to require institutions to supply information to prospective students if the information does not facilitate their ability to effectively evaluate that institution. A balance must be achieved between the existing disclosure requirements in California (which offers the student little help in making a decision) and the comprehensive reporting requirements suggested by several federal agencies.¹⁹

19. See, for example, the reporting requirements recommended in Consumer Protection Strategies: A Literature Review and Synthesis - Improving the Consumer Protection Function in Postsecondary Education, by Carolyn B. Halliwell and Steven M. Jung, December 1975 (report prepared for Office of Education, U.S. Department of Health, Education, and Welfare), p. 18.

Recommendation 6: Information Disclosure to Students

All postsecondary institutions should be required to make available to students a catalog or brochure containing information describing the courses offered, program objectives, faculty and their qualifications, length of program, schedule of tuition, fees, and other expenses required to complete the course of study, cancellation and refund policies, number of applications received and the percentage of those accepted for admission to the educational program, and the total cost of tuition over the entire period. For vocational training programs, the information should also include the average salary ranges in each field and the employment rate of former students based upon most recent data. Institutions shall also make available to students detailed information concerning financial assistance programs provided by the federal and State governments. These requirements are similar to those recently adopted by HEW for institutions receiving FISL funds.

Problem 7: Misleading and Inaccurate Advertising

Unlicensed private schools occasionally open in California, advertise, and enroll students without the Bureau of School Approvals being aware of their existence. There is also evidence that licensed schools use misleading and inaccurate advertising to attract students, offering false promises of job placement and earning opportunities. This type of complaint is among the most frequently made by California students.

Recommendation 7: Aggressive Enforcement of Laws Regulating Advertising

Division 21 clearly addresses the problem of misleading and inaccurate advertising. The law states that no individual who owns and/or represents a private postsecondary school shall

. . . make or cause to be made, any statement, or representation, oral, written, or visual, in connection with the offering or publicizing of a course, if such person, firm, association, partnership, or corporation knows, or reasonably should have known, the statement or representation to be false, deceptive, inaccurate or misleading.²⁰

The most effective method of alleviating this problem is for the responsible agencies--the Attorney General's office and, currently, the Bureau of School Approvals--to begin to aggressively enforce the existing law. Until such action, there is no basis for arguing that the law should be strengthened.

20. Section 29035, Division 21.

VII. THE ISSUE OF ACCREDITATION

An assessment of the regulation of private postsecondary education must consider the issue of accreditation for two primary reasons:

1. Private degree-granting and nondegree-granting institutions which are accredited by recognized national or regional agencies are, in practice, considered to be exempt from the provisions of Division 21. Therefore, private accredited institutions are not scrutinized by any State regulatory agency prior to or during their operation in California. The effect of this practice is to delegate the State's responsibility for overseeing the operation of these institutions to independent nongovernmental agencies.
2. The federal government relies on state or private accrediting agencies to determine the eligibility of educational institutions and programs to receive federal funds. Since California does not maintain a State accrediting agency, the responsibility for designating which California institutions are eligible for these funds is again delegated to an essentially independent agency.

A. Background

1. The Accreditation Process

When private postsecondary institutions make the decision to seek accreditation, they must choose between "institutional accreditation" and "specialized or professional accreditation." Both types are voluntary and nongovernmental. Institutional accreditation normally applies to an entire institution and indicates that each of its parts is contributing to the accomplishment of the objectives of the whole institution, although each part is not necessarily of the same level of quality. Specialized or professional accreditation generally applies to specific programs or professional schools within an institution and indicates only that the particular program or professional school has met certain accepted standards.

The policies and procedures related to the two types of accreditation vary considerably in emphasis and approach, but the process of accreditation is similar in each. The process begins with an effort to assess the effectiveness of the institution or a particular

program in meeting its publicly stated purposes and objectives. This self-assessment may include a broad cross-section of the institution's constituencies, such as students, faculty, administrators, and even the local community. The report based on this self-study provides background material for the accrediting agency's evaluation team which will visit the institution. The team generally consists of professional educators who are specialists according to the nature of the institution, and sometimes members of state agencies and other persons representing specific public interests. The visiting team evaluates the self-study and adds judgments based on its expertise and independent perspective.

After the written report of the accreditation team has been reviewed by the institution for factual accuracy, it is submitted to the accrediting agency, along with the original self-study report and any additional comments the institution may wish to make. The accrediting agency then considers the evidence and reaches a decision on whether or not to grant accreditation. The institution can appeal a negative decision.

Accrediting agencies reserve the right to reevaluate any institution or program at any time for cause, and any institution undergoing substantive change--adding a new graduate degree program, for example--is to be reviewed within two years after the change becomes effective. This procedure is designed to maintain a continuing relationship between the accrediting agencies and the programs or institutions they accredit.¹

2. Why Be Accredited?

There are a number of reasons why a school seeks accreditation--peer and public status, attractiveness to students, transferability of credit, and governmental funding. Accreditation confers a certain status upon an institution and renders it eligible to receive funds from a host of federal and state assistance programs. With the increasing flow of federal dollars into postsecondary institutions, schools are anxious to attract students (and their parents) with assurances of quality and stability. Accreditation is offered as evidence of both.

Accreditation is also important in terms of professional recognition and acceptance. Many licensing boards require graduation from an accredited institution or professional school as a prerequisite to being licensed to practice a profession. Also, as noted earlier, accreditation by a "nationally recognized" agency exempts many

1. For a detailed discussion of this process see The Council on Postsecondary Accreditation (COPA), Washington, D.C., 1975.

schools from direct oversight by the state regulatory agency.² Despite the several benefits accruing to schools which achieve accreditation, there are sound reasons why some schools do not seek accreditation. Many new schools are not eligible for accreditation, since most agencies require that the applicant school has been in operation for at least two years. When a number of schools open to answer the demand for trained personnel for a new field (e.g., computer technology), all are likely to be unaccredited due to the "years in operation" requirement.

There are also small schools that see no need for accreditation. Some schools remain unaccredited in order to maintain flexibility and innovation in programming, rejecting the imposition of outside criteria by an accrediting agency. Some religious schools also resist governmental intervention, whether it be by state or federal authorities or by national accrediting agencies. Finally, for schools with highly specialized programs there may be no appropriate accrediting agency; these schools have no choice but to remain unaccredited.

The absence of accreditation does not perforce mean that a school is of lesser quality; it may only indicate that it is small, relatively new, has no accrediting agency for its specialized programs, or does not wish to join a voluntary association. A careful examination of the institution itself is the only way in which to determine exactly why it is not accredited.

3. Accreditation as a Measure of Quality and Probity

Voluntary accreditation has evolved to answer the need for some accepted criteria by which to judge an institution's quality. With the reluctance of federal and state governments to make such judgments, the institutions themselves--and later the professions--voluntarily developed minimum standards of educational quality and procedures for self-regulation. Today, the regional or institutional accrediting associations have joined with the specialized or professional accrediting agencies to form a national Council on

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2. According to the Attorney General's office, while Division 21 applies to those institutions accredited "by a national or applicable regional accrediting agency recognized by the United States Department of Health, Education, and Welfare, Office of Education," the State agency responsible for administering Division 21 has no authority over them. (Section 29023(a)(1), Division 21.) See Appendix D for a complete list of recognized accrediting agencies.

Postsecondary Accreditation (COPA). The Council plans to coordinate and periodically review the work of its member agencies to ensure the integrity and consistency of their policies and procedures.

The basis for accreditation rests primarily on the institution's self-study report and a determination by the evaluating team of how well the institution is meeting its own stated purposes and objectives. With the tremendous diversity that characterizes American educational institutions, and given the multiple purposes and objectives that this diversity allows, it is difficult to determine exactly what constitutes "quality education." Accreditation signifies "only that an institution 'is achieving in an acceptable manner its avowed purposes.'"³

While accreditation is frequently perceived as evidence that an institution meets normally accepted standards of quality in education, it does not necessarily follow that nonaccredited schools are, conversely, without integrity and quality. In fact, the conditions of quality and probity vary among institutions in both the accredited and unaccredited groups. Accreditation is not necessarily a reliable measure of either an institution's integrity or its educational quality.⁴

Frequently, it also is assumed that operators of proprietary vocational/technical schools tend to be less interested in quality education than those who direct nonprofit educational institutions. The reason for this assumption, in part, is that it is easier to measure the performance (or lack of it) of a proprietary school than

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3. Norman Burns, "Accrediting and Educational Diversity," The North Central Association Quarterly, April 1961, pp. 257-8, as quoted in Private Accreditation and Public Eligibility, Harold Orlans, (Lexington Books, Mass. 1975) p. 155.

4. In a recent study of accreditation, Harold Orlans states:

. . . individuals familiar with the industry are in agreement that it is in the accredited segment. . . where the greatest aggregate public harm is done; for while the individual abuses of accredited schools may be less flagrant, the cumulative effect of their offenses is worse because of their larger student enrollments and greater average longevity, made possible in good measure by the appearance of respectability and the government subsidies they acquire precisely by reason of their accreditation.

Ibid., p. 179.

of a traditional liberal arts institution. A proprietary school contracts with a student to teach specified skills in a specified time for specified cost; this is a clearly understood contract which may be breached. When it is, the student has the right and frequently the motivation to complain. The situation is different with a private liberal arts college, which does not make a specific contract with the student. It is much more difficult for a student to determine whether she/he has received what was paid for, and there is less likelihood for subsequent complaint. Neither accreditation nor a nonprofit orientation can be used as the only criterion for identifying reputable as opposed to disreputable private schools.

B. The Issue of Accreditation

California relies on nationally recognized accrediting agencies to determine the quality and probity of many of its private institutions rather than having the State establish its own criteria and conduct its own evaluation. Further, California relies on the U.S. Office of Education to formally recognize and oversee the various accrediting agencies. This delegation of the State's responsibility to protect its educational consumers is not only unwise, but may subject the State to civil liability.⁵

Accrediting agencies have not been universally pleased with the growing federal and state reliance on their services. Generally, the agencies take the position that they have their own purposes

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5. Abdicating the responsibility of evaluating schools to private accrediting associations "raises the possibility of subjecting the state to civil liability. Jetma Technical Institute is a school which, until recently, was accredited by the National Home Study Council and therefore exempt from regulation by Division 21. Jetma allegedly has engaged in deceptive advertising and unfair practices in soliciting enrollees. One of these students, Robert C. Budda, has recently filed a lawsuit against Jetma; also named as defendants were the National Home Study Council and Wilson Riles acting in his capacity as Superintendent of Public Instruction. As against Mr. Riles, the suit seeks 'a writ of mandate commanding him to institute procedures and to hire necessary personnel so that vocational schools will be thoroughly investigated before they are originally approved.'" See "Notes of Meeting of the California Attorney General's Office on the Subject of 'Division 21 of the Education Code,'" May 19, 1975, p. 3.

and objectives and that the government should not expect or require them to provide services and functions which may serve federal purposes at the expense of their own.⁶

In light of these problems, the federal government is designing stricter criteria for USOE recognition of accrediting agencies. In addition, HEW is proposing legislation that would give the federal government direct access to school records for the purpose of determining compliance with federal regulations, and would mandate standards of ethics for advertising, recruiting and enrolling students, and for fair and equitable refund policies.⁷ While

6. Toward a Federal Strategy for Protection of the Consumer of Education, Federal Interagency Committee on Education, HEW, Washington, D.C., July 1975, p. 38. Kenneth E. Young, President of the Council on Postsecondary Accreditation (COPA), stated that "a lot of these proposals that accreditation do other things would move us into areas that are not our purpose, which is the evaluation of educational quality." Regarding the new criteria developed by USOE for the accrediting agencies, Young stated that "each time they're revised, they get more detailed and move farther away from the mission of accreditation." Young was quoted by Phillip Semas, "Is Uncle Sam Muscling In?" Chronicle of Higher Education, December 1975, p. 1.
7. This proposed legislation includes the following among its major provisions:
 - In order to be eligible for federal funds, an institution would have to give the federal government "access to the financial, attendance, admission, and other records" it needs to audit any federal funds and to "determine compliance by the institution or school with any statute, regulation, or other standard or requirement relating to participation in the program."
 - The USOE would be allowed to recognize state agencies as the determiners of eligibility of all vocational schools, whether they are public, private nonprofit, or proprietary. The current "Mondale amendment" provides such coverage only for public vocational schools.
 - Institutions would be required to comply with regulations to be drawn up by USOE regarding "maintenance of student records," "public disclosure of statistics" on the performance of the institution and its recent graduates, "standards of ethics for advertising, recruiting, and enrolling students," and "establishment of a fair and equitable tuition refund policy." (Semas, Op Cit., p. 6.)

accrediting agencies object to these proposed new regulations, it appears that only an increased responsibility for the public interest and more effective cooperation with the federal and state governments will deter increased intervention.

Given the uncoordinated nature of federal activities, educational consumers in California must depend on the State to protect them from unethical practices by some postsecondary institutions. Yet there is no one State agency equipped to deal with the complaints of student consumers or to effectively regulate the hundreds of private institutions in California. Regulation and complaints are handled in a confusing and uncoordinated manner by a number of State agencies, including the Bureau of School Approvals, the Attorney General and the Department of Consumer Affairs.

C. Conclusions and Recommendations

Given the somewhat uncoordinated federal activity regarding the problems of accreditation and consumer-protection, California must provide its own solutions for its own citizens. The State goal should be to ensure the existence of an effective process to promote educational quality and to provide necessary consumer protection for all private postsecondary educational institutions. If it is to achieve this goal, California cannot exempt any schools from compliance with State laws, since to treat accredited schools preferentially discriminates against those schools which cannot or do not wish to be accredited.

In terms of determining educational program quality, accrediting agencies are presently constituted to do a better job than could any existing State agency. Any attempt to duplicate the procedures and function of the many specialized accrediting agencies would be virtually impossible and prohibitively expensive for a State agency. While accrediting agencies may be far from perfect in terms of assuring the quality of an institution's educational program, there are really no viable alternatives at the present time.

The State can and should do much to eliminate the confusing problems resulting from the accreditation issue. The following recommendations are offered for that purpose:

Recommendation 1

Division 21 should be revised to include specified minimum standards that must be part of the criteria employed by the State agency responsible for authorizing private institutions to operate within the State. These standards should include:

- Consideration of the institution's ability to enable students to achieve its stated educational objectives;
- Adequate and accurate information for prospective students regarding the objectives, costs, and conditions involved in the educational program;
- Truth in advertising practices and disclosure of all relevant information (such as facilities, qualifications of staff, credentials, and records); and
- Minimum standards to the consumer in terms of health, safety, and fiscal responsibility.

Recommendation 2

The State regulatory agency should be permitted to accept accreditation of an institution by a recognized national or regional agency as evidence of the institution's adherence to the minimum standards established by the State agency. However, "the use of such accredited status is permissive, not mandatory, and the state agency may require additional evidence or may undertake its own investigation if it so desires or the circumstances warrant."⁸ While the State agency may use accreditation for the purpose described, it cannot abrogate its public responsibility by substituting accreditation for independent review and action.

Recommendation 3

The Legislature should designate one State agency as the central mechanism for handling educational consumer complaints. This agency must have the injunctive power to close a school in the case of noncompliance with Division 21 of the Education Code. Sufficient manpower and funds must be allocated to this agency to enable it to successfully carry out its consumer protection and compliance responsibilities and functions.

Recommendation 4

In view of the lack of systematic information on the subject of accreditation of California private schools, the California Post-secondary Education Commission should undertake a comprehensive

8. Education Commission of the States, Model State Legislature, Denver, Colorado, June 1973 (pp. 10-14).

study of accreditation, consumer complaints, and private education in California--the benefits and problems, and the real or perceived differences between accredited and nonaccredited schools.

VIII. CONTRACTING WITH PRIVATE SCHOOLS

A great deal of controversy currently surrounds the constitutionality of public schools contracting with private institutions for educational services. For several years, Community Colleges and adult schools in many school districts have contracted with private institutions to provide instruction in cosmetology, health careers, flight training, and other programs. Similarly, contracts are made with private schools or organizations to provide educational services to handicapped students who would not receive adequate training in public schools. Contracts have also been made to provide counseling services, work-experience programs, preschool programs, sheltered workshops, and innovative mathematics and reading programs.

The primary benefit to the State in allowing these contracts is that of saving money. A Community College will save money by contracting for the services of a nearby flight school instead of purchasing expensive equipment, securing appropriate facilities, and hiring qualified required staff to offer this training. Elementary schools with no facilities for the handicapped will save money by sending handicapped students to a special education center instead of redesigning existing facilities to accommodate these relatively few students. In general, private schools receive reimbursement not to exceed the maximum allowable apportionment due the public school, based on average daily attendance (ADA) per student for that year. In actuality, programs at private schools often cost less than the allowable apportionment. The school district, of course, receives the total ADA per student, reimburses the private school, and keeps the remainder, if any.¹

In 1975-76, 15 Community College Districts had contracts with 32 private vocational schools to provide training in five program areas: cosmetology, health careers, mechanics, barbering, and business. During the same year, approximately 135 vocational contracts were filed by public school districts and Regional Occupational Centers/Programs, both controlled by public school districts and subject to approval by the Department of Education. Well over half of these contracts were for cosmetology programs; others were for training programs in health careers, flight and ground school, sales and merchandising, business, and mechanics. Both the Office

1. It has been argued that the public schools are profiting through this process, although the public institutions reply that the funds are needed to cover administrative expense.

of the Chancellor of the Community Colleges and the Department of Education specify that cost per student hour paid under contract to a private school may not exceed the allowable ADA per student, nor exceed the amount charged a student enrolling directly in the school.

In 1973, Section 30133 was added to the Education Code, which reads:

Any school district or districts; any community college district or districts; any county superintendent or superintendents; or the governing body of any agency maintaining a regional occupational center or program may contract with a private postsecondary school approved pursuant to the provisions of Chapter 1 (commencing with Section 29001) of Division 21 to provide vocational skill training authorized by this code.

This section of the Education Code has been interpreted by some as contradicting Article IX, Section 8 of the California State Constitution, which reads:

No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools

Those who favor private school contracting argue that all schools authorized under Division 21 are ultimately under the control of the Superintendent of Public Instruction, who is an officer of the public school system. It is further argued that Article IX was certainly not intended to prevent indirect monies, such as State financial aid to students or contract funds, from flowing to private schools.

Those opposed to contracting cite the words, "exclusive control," in Article IX as a basis for declaring this practice unconstitutional. Opponents also point out that students who enroll directly in the private school pay full tuition, while those in public schools obtain identical training at little or no direct personal expense.

Regardless of Article IX, Section 8, the practice of contracting has been followed for many years, often involving large amounts of State money. In 1971, a medical-student contract program was authorized, to be administered by the Student Aid Commission. Under this program, the State would reimburse private medical schools in California which admitted additional students above a certain level. The school would receive approximately \$10,000

per additional new student enrolled per year in physician and surgeon programs. The medical schools at Stanford University, University of Southern California, and Loma Linda University, participated in this program. When questions arose concerning Loma Linda's practice of giving employment preference to members of the Seventh-Day Adventist Church, with which it is directly affiliated, the Student Aid Commission requested an Attorney General's opinion on the matter. The result was as follows:

On April 14, 1975, the Commission received an Attorney General's opinion stating that although Chapter 1282 (special legislation for Loma Linda) was intended to retroactively qualify Loma Linda Medical School for payments under the medical contract program, such payments would violate the California Constitution (Article XVI, Section 3² and 5;³ Article IX, Section 8⁴).

2. Article XVI, Section 3:

No money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a State institution, nor shall any grant or donation of property ever be made thereto by the State, except that notwithstanding anything contained in this or any other section of the Constitution.

3. Article XVI, Section 5:

Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any city, city and county, town, or other municipal corporation for any religious creed, church, or sectarian purpose whatever . . . "

4. Article IX, Section 8, is quoted on the preceding page.

Because the unconstitutional argument seemed much broader than just the Loma Linda problem, we addressed several questions to the Legislative Counsel for clarification. The reply, received June 27, 1975, indicated all state payments to all medical schools under this program are unconstitutional.

No payments have been made under the medical contract program during the current year and none should be authorized in future years. As a result, we have recommended the funds be reappropriated for other purposes or returned to the General Fund surplus.⁵

Although Loma Linda subsequently withdrew from the medical contract program, Stanford and the University of Southern California each have approximately twenty students attending classes who enrolled under the program. The continued training of these students represents an expenditure of approximately \$1,000,000 per year for the two institutions. Stanford and USC have joined together for the purpose of suing the Student Aid Commission and the State of California for payment of these costs. The schools claim that the State broke its contractual agreement to pay the educational cost of each new medical student in return for the school's refraining from reducing enrollments in their programs. According to an attorney for USC, the decision will center around the definition of "support" as used in the California Constitution. The forty students currently enrolled at Stanford and USC will continue to attend classes with endowment funds being used to cover the costs of training.

Recently, the County Council of Sonoma County concluded that contracting with any private entity by a public school was unconstitutional, based on Article IX, Section 8, of the Constitution. Subsequently, the owner of a cosmetology school in Santa Rosa (Sonoma County) requested an Attorney General's opinion on this decision. In March 1976, the California Association of Schools of Cosmetology (CASC) filed suit for declaratory relief⁶ against Sonoma County, the Department of Education, and the State of California. The Association argues that contracting is constitutional because the public schools control all aspects of the training and contract monies are used for a public purpose.

5. Report of the Legislative Analyst to the Joint Legislative Budget Committee, February 1976, pp. 934-935.

6. Declaratory Relief: A decision by a court determining how the law will apply to a set of facts. (Not a legal definition.)

When and if the suit goes to trial, the judge can be expected to issue an official ruling on the constitutionality of public schools contracting with private entities for educational services.⁷

7. Appendix V enumerates some of the sections in Division 21 of the Education Code that might be affected if the judge makes a decision.

IX. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

As summarized in the introductory chapter and discussed in detail in the body of the report, this study offers the following seven major conclusions:

1. Compared to other states, California laws regulating private institutions are among the oldest in the nation. Moreover, California is one of the few states which fund the activities of the agency responsible for regulating private education solely through the licensure fees from these schools.
2. Continued inaction by state governments--including California--to enact consumer-oriented legislation to regulate private institutions could lead to the preemption of current State laws by more stringent federal laws.
3. California has the largest number of private institutions in the nation. In terms of both quality of educational program and numbers of students enrolled, these institutions make a significant contribution to California postsecondary education. In seeking to improve the operation and effectiveness of Division 21 of the Education Code these contributions must be recognized and protected.
4. There are major deficiencies in the administration and enforcement of Division 21. These include an unresponsiveness to the needs of the student consumer, an unresponsiveness to and nonrepresentation of the needs of the private school segment, an absence of aggressive enforcement of existing regulations, and an absence of centralized authority and responsibility for the supervision and regulation of private institutions.

Three factors contribute to this situation: (a) the limited budget of the Bureau of School Approvals for the administration of Division 21, (b) the subsidiary role of the Bureau within the Department of Education, and (c) the Department of Education's primary concern with elementary and secondary education.

5. The "A-3" provision of Division 21 permits degree-granting institutions to be established in California by applicants who possess \$50,000 of real and personal property to be used exclusively for educational purposes. The provision contains loopholes which might allow unscrupulous persons to establish and operate schools at the expense of the student, in particular, and the public interest, in general.

However, the concept of the "A-3" provision as an open door for innovative alternative schools should be retained since it provides an important vehicle for change in California postsecondary education.

6. Division 21 does not provide adequate protection for the student consumer. It does not address such problems as the student attending a school which closes in mid-term; hard-sell techniques used by commissioned school representatives; the absence of requirements for the maintenance of student records; and a limited disclosure requirement for institutions which requires only a statement of the total financial obligation that a student will incur upon enrollment.
7. Private institutions which are accredited by recognized national or regional agencies are, in practice, considered to be exempt from the provisions of Division 21. The effect of this practice is to delegate the State's responsibility for overseeing the operation of private institutions to independent nongovernmental agencies.

B. Recommendations

In response to these conclusions, and based upon the analysis presented in the report, this study recommends that the Legislature undertake a complete revision of both Division 21 and the process by which it is implemented and administered. This revision should promote the integration of private institutions (particularly vocational/technical schools) into California's postsecondary education system; provide an appropriate regulatory agency that is responsive to the needs of both the producer and consumer of private education; and foster and improve the educational programs and services of private institutions while protecting the citizens of California from fraudulent or substandard operations.

These revisions in Division 21 should provide for the following changes in particular:

1. The current responsibilities of the Bureau of School Approvals should be transferred to the Council for Private Postsecondary Educational Institutions. The Council should become an administrative agency directly responsible to the Legislature and the Governor. Members on the Council should be appointed by the Legislature and the Governor, with a predominance of public members over representations from the private institutions. The Council should be completely independent of the Department of Education. The Council should meet as often as it deems necessary to carry out its duties and responsibilities. The Council should appoint and may remove a director, and the director should appoint persons to such staff positions as the Council may authorize.
2. The activities of the agency responsible for administering Division 21 should be funded through the State's General Fund as well as through reimbursements from licensure fees.
3. The "A-3" provision for degree-granting institutions should be revised so that: (a) The "full disclosure" requirement is considered the major element in each institution's application for authorization to operate. This provision should be revised so that the State can verify the accuracy of the "full disclosure" statement prior to the opening of the institution, and every three years thereafter. (b) The loopholes in the \$50,000 requirement should be eliminated. An institution should be required to maintain \$50,000 in total net worth, to be used exclusively for legitimate educational purposes. Each institution should be required to file a financial statement certified by a Certified Public Accountant with the initial application, and every three years thereafter. This \$50,000 in assets should be maintained in California for as long as the school is licensed to operate in the State.
4. Several important consumer protection provisions should be added to the Education Code, including: (a) the development of a statewide student tuition indemnification plan; (b) a tuition refund schedule directly proportionate to the amount of the course completed, until the student has completed 50 percent

of the course; (c) a six-day cooling-off period following the initial visit to a campus by a student who has signed a contract and began tuition payments prior to visiting the campus; (d) a central agency for handling student complaint; (e) permanent maintenance of student records; and (f) complete disclosure of information to students by all private post-secondary institutions.

5. While the State may use accreditation as evidence of compliance with its minimum educational standards, the State should not abrogate its responsibility by using accreditation as a substitute for independent review and action. Accordingly, the Education Code should be revised to clearly indicate that, while the State may accept accreditation by a recognized national or regional agency as evidence of the institution's conformance to the minimum standards as set forth by the State agency, the use of this accredited status is permissive, not mandatory, and the State agency may require additional evidence or may undertake its own investigation if it so desires.

APPENDICES

APPENDIX A

DIVISION 21 OF THE
EDUCATION CODE

DIVISION 21. PRIVATE EDUCATIONAL INSTITUTIONS

Chapter 1. Private Colleges, Schools and Institutions Generally

Article 1. General Provisions

Legislative Intent

29001. It is the intent of this Legislature to encourage privately supported education and protect the integrity of degrees and diplomas conferred by privately supported as well as publicly supported educational institutions.

It is also the intent of the Legislature to encourage the recognition by tax-supported institutions of work completed and degrees and diplomas issued by privately supported institutions, to the end that students may have equal opportunities for equal accomplishment and ability.

In the present period the need for educational services for the youth is so great that it cannot be met by tax-supported institutions alone. The contribution of privately supported educational institutions to the preservation of our liberties is essential. These objectives can best be achieved by protecting the integrity of degrees and diplomas issued by such institutions.

Definitions

29002. As used in this article "degree" means any "academic degree" or "honorary degree" or title of any designation, mark, appellation, series of letters or words such as, but not limited to, associate, bachelor, master, doctor or fellow which signifies, purports or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond the secondary school level or is a recognized honorary title conferred for some meritorious recognition.

As used in this article "diploma" means any "diploma," "certificate," "transcript," "document," or other writing in any language other than a degree representing that any person has completed any course of study beyond high school.

Any person, firm, association, partnership, or corporation qualifying under this division to issue "degrees" or "diplomas" is considered as being authorized to issue appropriate related documents, setting forth the training and attendance completed by students enrolled in the course of study.

Graduation from high school or its equivalent need not be nor purport to be a prerequisite for undertaking or completing such course of study.

Exclusion From Term "Diploma"

29003. Notwithstanding the provision of Section 29002, "diploma" does not include a certificate of graduation issued in connection with the educational requirements of Section 2941.5 of the Business and Professions Code; provided, that such certificate is delivered solely to the Psychology Examining Committee, to be retained in its file until such time as the recipient may pass the examination of said examining committee, at which time said certificate, or a duplicate thereof, shall be delivered to him.

Exclusion From Term "Diploma"

29004. Notwithstanding the provisions of Section 29002, "diploma" does not include a document evidencing completion of a course of in-service training given by any person, firm, association, partnership, or corporation, if all of the following conditions apply:

(a) The course of in-service training is given in connection with the primary business or purpose of the person, firm, association, partnership, or corporation, and such primary business or purpose is not education.

(b) The course of in-service training and the document is given only to employees of such person, firm, association, partnership, or corporation, or to employees or representatives of customers of such person, firm, association, partnership or corporation.

(c) No charge is asked or collected from the persons taking the course or receiving the document.

(d) The document issued for in-service training is a certificate which sets forth the extent of attendance or performance or both in an area of training.

(e) All statements made on the certificate are truthful.

Council for Private Postsecondary Educational Institutions

29005. (a) There is in the Department of Education a Council for Private Postsecondary Educational Institutions consisting of the Director of Education, or his designee, and 12 additional members who shall be appointed by the Director of Education, subject to the concurrence of the State Board of Education, as follows:

(1) Six members who shall be administrative heads of institutions operating under the authority of Section 29023 or Section 29025. One such member shall be selected from a school or college operating under paragraph (1) of subdivision (a) of Section 29023 and one shall be the administrative head of a school or college operating under subdivision (b), (c), or (d) of Section 29023. Except as provided elsewhere in this section, no person shall be eligible for appointment if he is the administrative head of an institution authorized exclusively under the provisions of paragraph (3) of subdivision (a) of Section 29023.

(2) Six shall represent the public. Four members shall be appointed who have a strong interest in developing private postsecondary academic, vocational, technical, and professional education; two members representing the public shall be representatives of business and labor that employ substantial numbers of persons in positions requiring vocational and technical skills.

(3) In addition, the following shall serve as ex officio members of the council:

- (i) The Director of the Department of Consumer Affairs.
- (ii) The Chief of the Division of Apprenticeship Standards.
- (iii) One administrative head of an institution operating exclusively under the provisions of paragraph (3) of subdivision (a) of Section 29023 appointed by the Director of Education; such appointment shall no longer be made when all such institutions have qualified under other provisions of the code.

Ex officio members have no vote.

(b) The first members shall be appointed on or before January 15, 1973, and the Director of Education shall designate the date of the first meeting of the council.

The terms of office of the members of the council shall commence on January 15, 1973, and the members shall enter upon their terms of office by lot so that the terms of four members shall expire on January 15, 1974; the terms of four members shall expire on January 15, 1975; and the terms of four members shall expire on January 15, 1976.

Thereafter, the terms of the members of the council shall be three years. No appointee shall serve on the council for more than six consecutive years.

No person shall be deemed to be a member of the council until his appointment has been concurred in by the State Board of Education, which shall take action regarding such appointment at the board meeting next following the appointment.

At the first meeting of the council, and annually thereafter, the members shall select one of their number to serve as chairman and one to serve as vice chairman. The vice chairman shall preside over all meetings of the council in the absence of the chairman.

(c) Any vacancy on the council shall be filled in the same manner as provided for appointment of council members in subdivision (a). The appointee to fill a vacancy shall hold office only for the balance of the unexpired term.

(d) Appointed members of the council shall receive no compensation but shall receive their actual expenses for attendance at official council meetings, and when on official council business approved by the Director of Education, not to exceed Board of Control expense allowances.

(e) The council shall determine the time and place of council meetings which shall not be fewer than six times in each calendar year.

(f) The council shall advise the Director of Education on the establishment of policy for the administration of this article and on the adoption of regulations governing the exercise of authority conferred on the Director of Education by this article and on any action by the Director of Education to grant, deny, suspend, or withdraw recognition of courses or schools pursuant to this article. All advice communicated to the Director of Education shall be adopted by an affirmative vote of a majority of the membership of the council, and shall be in writing.

(g) The Director of Education, with the advice of the council, shall:

(1) Establish policy for the administration of this chapter.

(2) Adopt regulations not inconsistent with this chapter governing the exercise of authority conferred by this article which shall be adopted in accordance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) Prepare, annually, a proposed budget for the support of the activities of the Department of Education pursuant to this article. The proposed budget shall be presented to the council for its review and recommendations.

(h) The Director of Education shall:

(1) Advise the council prior to promulgating any rules or regulations pursuant to this section and prior to instituting any action to deny, suspend, or withdraw recognition of courses of schools pursuant to this article.

(2) Take into consideration the advice of the council on all matters where the council is authorized by this section to communicate advice to the Director of Education.

(i) The Director of Education may impanel special committees of technically qualified persons to assist him and the council in the development of standards for courses and the evaluation of any course or school applying for recognition pursuant to subdivision (a)(2) of Section 29023 and Section 29025. The special committees shall make such inspections and studies as may be necessary to enable them to advise the council and the Director of Education in regard to action to be taken in any particular situation. Members of these special committees shall not be connected in any way with a school which is the subject of inspection or investigation. The members of the special committees shall serve at no expense to the state.

Right to Form Corporation for Educational Institution

29016. A corporation may be formed pursuant to this article for the purpose of establishing, conducting, and maintaining an educational institution offering courses of instruction beyond high school, and issuing or conferring a diploma or degree. Such institutions shall include, but not be limited to, seminaries of learning, specialized educational institutions, junior colleges, colleges, and universities, offering courses beyond high school.

Compliance with Corporations Code; Articles of Incorporation

29017. A corporation formed pursuant to this article shall comply with Chapter 1 (commencing with Section 300) of Part 2, Division 1, Title 1 of the Corporations Code, except that in lieu of the requirements of Sections 301 to 305, inclusive, the articles of incorporation shall state:

- (a) The name of the corporation.
- (b) The purpose for which it is organized.
- (c) The county in the state where the principal office for the transaction of the business of the corporation is to be relocated.
- (d) The names, residence address and number of its directors at the time of its incorporation. Provision may be made that the number of directors may be established by the bylaws; provided, that the number of directors may not be less than five.

Shares of stock

29018. (a) If a corporation formed pursuant to this article is to be authorized to issue shares of stock, the articles of incorporation shall state the total number of shares which the corporation shall have authority to issue and (1) the aggregate par value, if any, of all shares, and the par value of each of the shares, or (2) a statement that all the shares are to be without par value and except as herein provided shall be treated for all purposes as being incorporated pursuant to Division 1 (commencing with Section 300) of Title 1 of the Corporations Code.

(b) If a corporation formed pursuant to this article is to be authorized as a nonprofit corporation without authority to issue shares of stock, the articles of incorporation shall so state and except as herein provided, such corporation shall be treated for all purposes as being incorporated pursuant to Part 1 (embracing Sections 9000 to 9802, inclusive) of Division 2 of Title 1 of the Corporations Code and shall have the general powers granted by Section 10206 of the Corporations Code.

Exclusion of Religious Instruction by Bona Fide Church or Religious Institution from Provisions

29020. The provisions of Sections 29003 to 29010, inclusive, do not apply to any diploma or course of instruction given by a bona fide church or religious denomination if such course is limited to instructions in the principles of that church or denomination or to courses offered pursuant to Section 2789 of the Business and Professions Code, and the diploma is limited to evidence of completion of that course.

Honorary Degrees, Diplomas or Certificates

29022. No person, firm, association, partnership or corporation may issue or confer any honorary degree, diploma or certificate whatsoever unless such degree, diploma or certificate clearly and plainly states on its face that it is honorary.

No person shall use, in connection with any business or profession, any title or designation signifying that he has been awarded any degree, diploma, or certificate which clearly and plainly states on its face that it is honorary. Nothing in this section, however, prohibits the use of an honorary degree when such use does not imply that the user possesses an economically valuable professional or technical skill.

Requirements for Issuing or Conferring an Academic or Honorary Degree or Diploma

29023. Except as otherwise provided by law, no person, firm, association, partnership or corporation may issue, confer or award an academic or honorary "degree" or "title" (meaning any designation, mark, appellation, series of letters or words such as, but not limited to, associate, bachelor, master, doctor of fellow) which signifies, purports or is generally taken to signify satisfactory completion of the requirements of an academic, technological, or professional program of study beyond the secondary school level unless such person, firm, association, partnership or corporation meets the requirements of any one of the three subdivisions of subdivision (a) of this section.

No person, firm, association, partnership or corporation may issue, confer, or award any "diploma" bearing the words diploma, certificate, transcript, document or other writing, other than the awarding of a "degree" title, representing that any person has completed any course of study beyond high school unless such person, firm, association, partnership or corporation meets the requirements of paragraph (2) of subdivision (a) of this section or one of the subdivisions (b), (c) or (d) of this section or Section 29025.

(a) (1) A person, firm, association, partnership or corporation which at the time of the issuance of a "degree" has full accreditation of the institution, program, or specific course of study upon which the "degree" is based by a national or applicable regional accrediting agency recognized by the United States Department of Health, Education, and Welfare, Office of Education, and provided further that the educational institution has filed with the Superintendent of Public Instruction an affidavit by the administrative head of the institution stating that the institution is so accredited.

(2) A person, firm, association, partnership or corporation approved by the Superintendent of Public Instruction to award or issue specified degrees. Such permission shall be granted by the Superintendent of Public Instruction for one year upon the initial approval and shall be granted for periods of three years upon each subsequent renewal, subject to the payment of an annual fee pursuant to paragraph (2) of subdivision (a) of Section 23027. Application

for such authorization shall be on forms furnished by the State Department of Education. The Superintendent of Public Instruction shall not approve an institution to issue degrees until it is determined, based on information submitted to him, that the institution has the facilities, financial resources, administrative capabilities, faculty, and other necessary educational expertise and resources to afford students and require of students the completion of a program of education which will prepare them for the attainment of a recognized professional, vocational, or educational objective, including, but not limited to, a degree; and the curriculum is consistent in quality with curricula offered by established institutions that issue the appropriate degree upon the satisfactory completion thereof. For the purpose of this subdivision the Superintendent of Public Instruction may compare with the requirements and standards of an accrediting agency generally accepted by the class of institution concerned. This shall include the determination that the course for which the degree is granted achieves its professed or claimed objective for higher education. The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the Superintendent of Public Instruction made pursuant to this subdivision.

Those institutions authorized to confer degrees pursuant to this subdivision may also be authorized by the Superintendent of Public Instruction to issue diplomas for the completion of courses of study, within their approved degree program, but which do not fully meet the degree requirements.

(3) A corporation which has filed with the Superintendent of Public Instruction an affidavit by the president or other head of the corporation, stating that the corporation owns an interest in real or personal property or both real and personal property used exclusively for the purpose of education, of a fair market value of not less than fifty thousand dollars (\$50,000). Such affidavit shall be accompanied by an appraisal by a state inheritance tax appraiser appointed for the county in which the institution is located, describing the real or personal property or both, and showing the value of the interest of the corporation therein to be at least fifty thousand dollars (\$50,000). The value of the interest of the property required to be owned by the corporation for the purposes of this section shall be deemed to be the appraised value of the interest owned by the corporation less the unpaid balance on any note secured by a mortgage or deed of trust thereon or the unpaid balance on a contract of sale thereof. Such a corporation shall file a statement of "full disclosure" by recording with the county recorder, in the county in which the school operates, an affidavit describing the institutional objectives and proposed methods of achieving them, the curriculum, instruction, faculty (with qualification), physical facilities, administrative personnel, educational records, tuition and fee schedule, scholastic regulations, diplomas and degrees to be conferred, graduation requirements and financial stability. Certified copies of all statements and affidavits required to be filed by this section shall be forwarded by United States mail to the Department of Education within 48 hours after the filings are made with the county recorder. Filing pursuant to this section shall not be interpreted to mean, and it shall be unlawful for any corporation to expressly or impliedly represent by any means whatsoever, that the State of California, the Superintendent of Public Instruction, the State Board

of Education, the California State Department of Education, or any division or bureau thereof, has made any evaluation, recognition, accreditation, approval, or endorsement of the course of study.

(b) A hospital licensed under the provisions of Division 2, Chapter 2 (commencing with Section 1400) of the Health and Safety Code, which issues diplomas in connection with the operation of a hospital.

(c) A person, firm, association, partnership or corporation which is accredited, approved, or licensed by a state board or agency as a school and which issues or confers diplomas in the profession, vocation or occupation controlled by the board or agency accrediting, approving, or licensing it; provided, that this subdivision shall not be construed as authorizing the issuing of a diploma which is not customarily granted for the training given and which is limited to the profession, vocation or occupation controlled by the accrediting, approving, or licensing board.

(d) A person, firm, association, partnership, or corporation which at the time of the issuance of a "diploma," as defined in Section 29002, has accreditation of the institution, program or specific course of study upon which the "diploma" is based by a national or applicable regional accrediting agency recognized by the United States Department of Health, Education, and Welfare, Office of Education and the administrative head of the institution has filed with the Superintendent of Public Instruction during the current calendar year the following affidavits:

(1) Verification that each course of study for which a diploma is issued is so accredited.

(2) Verification that the institution is financially capable of fulfilling its commitments for its accredited courses.

(3) Verification that the institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation.

(4) Verification that the institution has and maintains a policy in reference to refund of the unused portion of tuition fees and other charges in the event the student fails to enter the course, or withdraws therefrom at any time prior to completion of the course. Such a policy shall set forth a minimum standard of refunds in accordance with rules and regulations adopted by the Superintendent of Public Instruction.

Affidavits required by this subdivision shall be filed on an annual basis.

Exempts Three- and Four-year Accredited Law Schools From Provisions of 29023(a)

29024. The provisions of subdivision (a) of Section 29023 shall not apply to any "degree" or "title" awarded by any school accredited pursuant to the provisions of subdivision (g) (1) and (2) of Section 6060 of the Business and Professions Code.

Approval of Courses of Education Leading to Educational, Professional or Vocational objective; Criteria

29025. Except as otherwise provided for in this code, no course of education or training leading to an educational, technological, professional or vocational objective shall be offered, and no diploma or honorary degree shall be issued or conferred, by any person, firm, association, partnership, corporation, or other entity which has not been approved by the Superintendent of Public Instruction. Application for such approval shall be made in writing on application forms provided by the Department of Education, pending final approval of new or added courses of instruction, the Superintendent of Public Instruction may issue a temporary approval upon submission of the complete application. A temporary approval shall be for a period of one year, subject to prior termination or conversion to annual approval basis by the Superintendent of Public Instruction. Any extension of a temporary approval on an annual basis shall require an annual fee. Courses offered for adults by any parochial or denominational school, or persons, firms, associations, partnerships, or corporations that have met the requirements of other sections of this division, or are offered solely for avocational or recreational purposes, will not be required to be approved under this section.

The Superintendent of Public Instruction may approve the application for recognition of such courses for a period of one year and shall grant subsequent approvals on an annual basis when an institution is found by the Department of Education to meet the following criteria:

- (1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools or other private schools, or both, in the state, with recognized accepted standards; or that the course, curriculum, and instruction meet recognized accepted standards for reaching the professed or claimed objective for that particular course.
- (2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of the quality needed to attain the objective of that particular course.
- (3) Educational and experience qualifications of directors, administrators, and instructors are adequate.
- (4) The institution maintains written records of the student's previous education and training with recognition where applicable.
- (5) A copy of the course outline, schedule of tuition, fees and other charges, regulations pertaining to tardiness, absence, grading policy and rules of operation and conduct is available to students upon enrollment.
- (6) The institution maintains adequate records to show attendance, progress, and grades.
- (7) The institution complies with all local city, county, municipal, state and federal regulations such as fire, building, and sanitation codes. The Department of Education may require evidence of compliance.

(8) The institution is financially capable of fulfilling its commitments for its approved courses.

(9) The institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation. With respect to a school having courses approved by the Superintendent of Public Instruction, the school can advertise to the effect that the particular course has been approved by the Superintendent of Public Instruction.

(10) The institution does not exceed enrollment facilities and equipment.

(11) The institution's administrator, director, owner, and instructors are of good reputation and character.

(12) The institution has and maintains a policy in reference to refund of the unused portion of tuition fees and other charges in the event the student fails to enter the course, or withdraws therefrom at any time prior to completion of the course. Such a policy shall set forth a minimum standard of refunds in accordance with rules and regulations adopted by the Superintendent of Public Instruction.

(13) The institution designates an agent for service of process within the state.

(14) In any written contract or agreement for a course of study with an institution there shall be included on the first page of such agreement or contract, in 14-point boldface print or larger, the following statement:

"Any questions or problems concerning this school which have not been satisfactorily answered or resolved by the institution should be directed to the Director of Education, Department of Education, Sacramento, California, 95814."

In addition, such written contracts or agreements shall specify, on the same page of the contract or agreement in which the student's signature is required, the total financial obligation that the student will incur upon enrollment in the institution in numbers or letters, or both, which are of larger print than the rest of the contract or agreement.

Upon completion of training, the institution may award a "diploma," as defined in Section 29002, to the student indicating the training and attendance completed.

The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the Superintendent of Public Instruction made pursuant to this section.

Sections 1292, 1293, and 1294 of the Labor Code shall not apply to work experience education programs established pursuant to this section, provided there is continuous and competent supervision by a qualified person.

Permits to Sell Correspondence Courses; Requirements for Permit; Appropriation of Fees

29026. No person, either on his own behalf or as the representative of any privately conducted correspondence school or of any private person, firm, association, partnership, or corporation whatever, shall, by personal contact, in California, solicit the sale of or solicit and sell any correspondence course of study beyond high school, of high school level, or below high school level, for a remuneration or other consideration to be provided for such course, unless he holds a valid permit to engage in such activity issued by the State Board of Education. The State Board of Education may delegate its authority to issue this permit to the State Superintendent of Public Instruction.

The State Board of Education, or the State Superintendent of Public Instruction, if such authority has been delegated by the State Board of Education, shall promptly cause to be prepared, and shall, pursuant to this section, issue appropriate permits authorizing the holder to engage in the solicitation of sales and the selling of such courses of study.

No person shall be issued a permit except upon the submission of satisfactory evidence of good moral character.

A permit shall be valid for the calendar year in which it is issued unless sooner revoked or suspended by the State Board of Education for fraud or misrepresentation in connection with the solicitation for the sale or the sale of any course of study, or for the existence of any condition in respect to the permittee or the school he represents which, if in existence at the time the permit was issued would have been ground for denial of the permit.

The application for a permit shall be made by the person who proposes to engage in the activities of soliciting or selling in those cases where such activities are to be conducted in the person's own behalf. Where the person for whom the issuance of a permit is sought is to engage in the activities as a representative, the application shall be made by the correspondence school or other person, firm, association, partnership, or corporation for and on behalf of the person to serve as its representative. Applications shall be submitted on forms to be furnished by the Department of Education. The original application, renewal applications when renewed on a continuous basis, and applications for additional sales permits shall be accompanied by an application fee in an amount established pursuant to subdivision (e) of Section 29027. Fees required by this section are hereby appropriated in augmentation of the appropriation for support of the Department of Education current at the date of issuance of the State Controller's receipt thereof as may be designated by the Department of Education prior to their deposit in the State Treasury and shall be nonrefundable irrespective of whether or not a permit is subsequently issued.

The application shall be accompanied by a bond executed by good and sufficient sureties making provision for full indemnification of any person for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study. The term of the bond shall extend over the period of the permit. The bond may be supplied by the correspondence school or other person,

firm, association, partnership, or corporation, or by the person for whom issuance of the permit is sought, and may extend to cover either an individual such person or to provide blanket coverage for all persons to be engaged as representatives of a correspondence school or other person, firm, association, partnership or corporation in the solicitation for sale or the sale of correspondence courses of study in California. Any bond shall provide for liability in the penal sum of one thousand dollars (\$1,000) for each representative to whom coverage is extended by its terms. Neither the principal nor surety on a bond may terminate the coverage of the bond except upon giving 30 days' prior written notice to the State Board of Education.

The permittee shall carry the permit with him for identification purposes when engaged in the solicitation of sales and the selling of correspondence courses of study.

Any contract for or in connection with a course of study with a correspondence school, or representative thereof, shall be voidable at the option of the purchaser if the representative of any person selling or administering such course of study, or the representative of such firm, association, partnership or corporation was not the holder of a permit as required by this section at the time that such representative negotiated the contract for or sold such course.

In any written contract or agreement for a course of study with a correspondence school there shall be included on the first page of such agreement or contract in 14-point bold face print or larger, the following statement:

"Any questions or problems concerning this school which have not been satisfactorily answered or resolved by the school should be directed to the Director of Education, Department of Education, Sacramento, California, 95814."

In addition, such written contracts or agreements shall specify, on the same page of the contract or agreement in which the student's signature is required, the total financial obligation that the student will incur upon enrollment in the correspondence school in numbers or letters, or both, which are of larger print than the rest of the contract or agreement.

The judgment rendered in any action maintained for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study shall, if the plaintiff is the prevailing party, include court costs including a reasonable attorney's fee fixed by the court.

The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the State Board of Education made pursuant to this section.

The issuance of a permit pursuant to this section shall not be interpreted as, and it shall be unlawful for any individual holding any such permit to expressly or impliedly represent by any means whatever that the Superintendent

of Public Instruction, the State Board of Education, or the Department of Education has made, any evaluation, recognition, accreditation or endorsement of any correspondence course of study being offered for sale by the individual.

It shall be unlawful for any individual holding a permit under this section and for any salesman, agent or representative of such individual to expressly or impliedly represent by any means whatever that the issuance of the permit constitutes an assurance by the Superintendent of Public Instruction, the State Board of Education, or the State Department of Education that any correspondence course of study being offered for sale by the individual will provide and require of the student a course of education or training necessary to reach a professional, educational, or vocational objective, or will result in membership in any union or similar organization or will result in employment or personal earnings for the student.

The issuance of a permit under this section, and the possession thereof, by an individual, shall be evidence only that the surety bond prescribed by this section has been issued with respect to the possessor and that he has submitted satisfactory evidence of good moral character.

Permits to Solicit or Sell Enrollments in Privately Conducted Resident Schools

29026.5 No person, either on his own behalf or as the representative of any privately conducted resident school located within or outside of California or of any private person, firm, association, partnership or corporation whatever, shall, by personal contact with any person in California at a place away from the instructional site of the school, solicit or sell enrollment in any course of study leading to an educational, technological, professional, or vocational objective beyond high school, to or for adults, for a remuneration or other consideration to be provided for such course unless he holds a valid permit to engage in such activity issued by the State Board of Education. The State Board of Education may delegate its authority to issue such permit to the State Superintendent of Public Instruction.

The State Board of Education, or the State Superintendent of Public Instruction, if such authority has been delegated by the State Board of Education, shall promptly cause to be prepared, and shall, pursuant to this section, issue appropriate permits authorizing the holder to engage in the solicitation of sales and the selling of such courses of study away from the premises of the school.

No person shall be issued a permit except upon the submission of satisfactory evidence of good moral character.

A permit shall be valid for the calendar year in which it is issued unless sooner revoked or suspended by the State Board of Education for fraud or misrepresentation in connection with the solicitation for the sale or the sale of any course of study, or for the existence of any condition in respect to the permittee or the school he represents which, if in existence at the time the permit was issued would have been ground for denial of the permit.

The application for a permit shall be made by the person who proposes to engage in the activities of soliciting or selling in those cases where such activities are to be conducted in the person's own behalf. Where the person for whom the issuance of a permit is sought is to engage in the activities as a representative, the application shall be made by the school or other person, firm, association, partnership, or corporation for and on behalf of the person to serve as its representative. Applications shall be submitted on forms to be furnished by the Department of Education. The original application, renewal applications when renewed on a continuous basis, and applications for additional sales permits shall be accompanied by an application fee in an amount established pursuant to subdivision (f) of Section 29027. Fees required by this section are hereby appropriated in augmentation of the appropriation for support of the Department of Education current at the date of issuance of the State Controller's receipt thereof as may be designated by the Department of Education prior to their deposit in the State Treasury and shall be nonrefundable irrespective of whether or not a permit is subsequently issued.

The application shall be accompanied by a bond executed by good and sufficient sureties making provision for full indemnification of any person for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study. The term of the bond shall extend over the period of the permit. The bond may be supplied by the school or other person, firm, association, partnership, or corporation, or by the person for whom issuance of the permit is sought, and may extend to cover either an individual such person or to provide blanket coverage to all persons to be engaged as representatives of a school or other person, firm, association, partnership or corporation in the solicitation for sale or the sale of courses of study in California. Any bond shall provide for liability in the penal sum of one thousand dollars (\$1,000) for each representative to whom coverage is extended by its terms. Neither the principal nor surety on a bond may terminate the coverage of the bond except upon giving 30 days' prior written notice to the State Board of Education.

The permittee shall carry the permit with him for identification purposes when engaged in the solicitation of sales and the selling of courses of study away from the premises of the school.

Any contract for or in connection with a course of study with a school, or representative thereof, shall be voidable at the option of the purchaser if the representative of any person selling or administering such course of study, or the representative of such firm, association, partnership or corporation was not the holder of a permit as required by this section at the time that such representative negotiated the contract for or sold such course.

The judgment rendered in any action maintained for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study away from the premises of the school shall, if the plaintiff is the prevailing party, include court costs including a reasonable attorney's fee fixed by the court.

The provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall be applicable to any determination of the State Board of Education made pursuant to this section.

The issuance of a permit pursuant to this section shall not be interpreted as, and it shall be unlawful for any individual holding any such permit to expressly or impliedly represent by any means whatever that the Superintendent of Public Instruction, the State Board of Education, or the State Department of Education has made, any evaluation, recognition, accreditation or endorsement of any course of study being offered for sale by the individual.

It shall be unlawful for any individual holding a permit under this section to expressly or impliedly represent by any means whatever that the issuance of the permit constitutes an assurance by the Superintendent of Public Instruction, the State Board of Education, or the State Department of Education that any correspondence course of study being offered for sale by the individual will provide and require of the student a course of education or training necessary to reach a professional, education, or vocational objective, or will result in employment or personal earnings for the student.

The issuance of a permit under this section, and the possession thereof, by an individual, shall be evidence only that the surety bond prescribed by this section has been issued with respect to the possessor and that he has submitted satisfactory evidence of good moral character.

Schedule of Fees

29027. The Superintendent of Public Instruction shall charge, commencing during the 1974-75 fiscal year, the fees listed herein for the approval of private institutions operating under this division. For ensuing fiscal years, the Superintendent of Public Instruction, with the advice of the council, may annually increase such fees by an amount which reflects an increase in the Consumer Price Index, all items, of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year next preceding the fiscal year to which it applies. The Superintendent of Public Instruction shall annually publish a schedule of the current fees to be charged pursuant to this section and shall make such schedule generally available to the public.

The following fee schedule shall govern the fees to be paid by private institutions operating under this division:

(a) For approval to issue degrees pursuant to paragraph 2 of subdivision (a) of Section 29023:

- (1) Five hundred dollars (\$500) for an original application.
- (2) One hundred fifty dollars (\$150) annually during the duration of the approval period renewal of such application.
- (3) One hundred dollars (\$100) for any of the following: approval to grant additional degrees, approval of additional major fields of study in approved degrees, for change of location, or auxiliary facilities in a new location.

- (4) One hundred fifty dollars (\$150) change of ownership.
- (5) Eight dollars (\$8) evaluation and approval of directors, administrators, and instructors subsequent to the original application.
- (b) For filing an original affidavit and appraisal and a copy of the full disclosure required to issue degrees pursuant to paragraph 3 of subdivision (a) of Section 29023, the original affidavit shall be accompanied by a three-hundred-dollar (\$300) fee. Each annual affidavit filed thereafter pursuant to Section 29031 shall be accompanied by a one-hundred-fifty-dollar (\$150) renewal fee.
- (c) For filling affidavits to meet the requirements of subdivision (d) of Section 29023, the original affidavit shall be accompanied by a one-hundred-fifty-dollar (\$150) fee. Affidavits filed annually thereafter pursuant to subdivision (d) of Section 29023 shall each be accompanied by one hundred fifty dollars (\$150).
- (d) For approval to issue diplomas or offer courses of education or training pursuant to Section 29025:
- (1) Three hundred dollars (\$300) for an original application.
 - (2) One hundred fifty dollars (\$150) for a renewal of a temporary approval or annual approval of courses.
 - (3) One hundred dollars (\$100) for approval of any of the following: change of location, major change or revisions in curriculum of course, auxiliary facilities in a new location, or additional courses.
 - (4) One hundred fifty dollars (\$150) for change of ownership.
 - (5) Eight dollars (\$8) for evaluation and approval of directors, administrators, and instructors subsequent to the original application.
- (e) For approval of an applicant to solicit or sell correspondence courses of study pursuant to Section 29026, the original application shall be accompanied by a twenty-dollar (\$20) fee. Each applicant shall pay an annual renewal fee of fifteen dollars (\$15). Application for additional sales permits shall be accompanied by a fifteen-dollar (\$15) fee.
- (f) For approval of an applicant to solicit or sell enrollment in courses of study at a resident school away from the instructional site of such institution pursuant to Section 29026.5, the original application shall be accompanied by a twenty-dollar (\$20) fee. Each applicant shall pay an annual renewal fee of fifteen dollars (\$15). Applications for additional sales permits shall be accompanied by a fifteen-dollar (\$15) fee.

"Auxiliary facilities" as used in this section shall be defined pursuant to regulations adopted by the Director of Education.

Affidavit for Those Issuing or Conferring Degrees or Honorary Degrees or Diplomas

29031. Every corporation meeting the requirements of paragraph (3) of subdivision (a) of Section 29023, issuing or conferring degrees or honorary degrees, shall between the 1st and 31st days of January of each year, commencing on January 1, 1971, file with the Superintendent of Public Instruction the following affidavits:

(a) An affidavit by the president or other head setting forth the corporation's financial statement covering the full preceding year.

(b) An affidavit by the president or other head setting forth the following information covering the preceding calendar year:

(1) All names, whether real or fictitious, of the person, firm, association, partnership or corporation under which it has done and is doing business.

(2) The address, including city and street, of every place of doing business of the person, firm, association, partnership or corporation, within the state of California.

(3) The address, including city and street, of the location of the records of the person, firm, association, partnership or corporation, and the name and address, including city and street, of the custodian of such records.

(4) The names and addresses, including city and street, of the directors, if any, and principal officers of the person, firm, association, partnership or corporation.

(5) That the records required by Section 29032 of this article are maintained at the address stated, and are true and accurate.

Any change in the items of information required to be included in the affidavit filed pursuant to subdivision (b) shall be reported to the Superintendent of Public Instruction within 20 days of such change.

Duty of Those Issuing or Conferring Diplomas or Honorary Diplomas to Maintain Records

29032. Any person, firm, association, partnership or corporation, which issues or confers degrees or diplomas or honorary degrees or honorary diplomas shall maintain current records for a period of not less than three years at its principal place of business within the State of California, immediately available during normal business hours, for inspection by the Superintendent of Public Instruction or the Attorney General showing the following:

(a) The names and addresses, both local and home, including city and street, of each of its students.

(b) The courses of study offered by the institution.

(c) The names and addresses, including city and street, of its faculty, together with a record of the educational qualifications of each.

(d) The degrees or diplomas and honorary degrees or honorary diplomas granted; to whom granted; the date of granting; together with the curricula upon which the diplomas and degrees were based.

(e) The superintendent of Public Instruction shall publish annually for public distribution, and may charge a fee to cover the cost of compilation and printing, a list of all schools of record conferring diplomas and degrees or otherwise of record. The list shall contain the names and addresses of such institutions together with a notation of the statute section or sections under which the institution has become of record.

Limitations on Groups Offering Training to Adults; Penalties for Violation

29035. No person, firm, association, partnership, or corporation owning or representing any private school offering training to adults shall:

(a) Make or cause to be made, any statement, or representation, oral, written, or visual, in connection with the offering or publicizing of a course, if such person, firm, association, partnership, or corporation knows, or reasonably should have known, the statement or representation to be false, deceptive, inaccurate or misleading.

(b) Promise or guarantee employment utilizing information, training or skill purported to be provided or otherwise enhanced by a course.

(c) Advertise concerning job availability, degree of skill and length of time required to learn a trade or skill unless the information is accurate and in no way misleading.

(d) Advertise, or indicate in any promotional material, that correspondence instruction, or correspondence courses of study are offered without including in all advertising or promotional material the fact that the instruction or courses of study are offered by correspondence or home study.

(e) Advertise, or indicate in any promotional material, that resident instruction, or courses of study are offered without including in all advertising or promotional material the location where the training is given or the location of the resident instruction.

(f) Solicit students for enrollment by causing any advertisement to be published in "help wanted" columns in any magazine, newspaper, or publication or use "blind" advertising which fails to identify the school.

Nothing contained in this section shall prohibit a private school and a bona fide employer from jointly advertising in "help wanted" columns of a magazine, newspaper, or other publication if all of the following conditions are met:

(1) There is a written agreement between the employer and the private school that the employer will hire at least 25 percent of the graduates of the private school trained in the skills being advertised as wanted, that such skills are clearly identified in the advertisement, and that the written agreement between the employer and the private school shall be deemed made expressly for the benefit of students recruited by the advertisement;

(2) The written agreement between the employer and the private school shall be displayed on the grounds of the private school where it is visually accessible to all students; and, upon the request of a student registering in the school, a copy of the written agreement shall be made available;

(3) There is a recognized shortage of persons with the skills advertised as wanted in the circulation area of the publication in which the advertisement appears;

(4) Any additional unique qualifications and conditions other than possession of advertised skill required of applicants are listed in the advertisement;

(5) There is an anticipated need for persons trained in such skills at the end of the private school's regular training period for the skills;

(6) The advertisement clearly identifies the school and the employer as separate entities and gives the complete address of both; and

(7) The advertisement clearly indicates that graduation from the school does not guarantee employment by the employer named in the advertisement.

(g) Advertise in such a way as to lead the reader to the mistaken belief that an offer for employment is being made.

(h) Advertise, or use the word "accredited" or "approved" with respect to itself or the course or courses which it offers unless the word is immediately followed by the complete name of the organization by which it is accredited or approved.

(i) Represent in any manner that completion of the training offered will result in membership in any union or similar organization of any type.

Any person, firm, association, partnership, or corporation willfully violating any provisions of this section shall be unable to enforce any contract or agreement arising from the transaction in which the violation occurred. In addition, in the event of such violation, said person, firm, association, partnership, or corporation shall refund to the student any tuition or fees that have been collected from the student. The student shall be awarded,

in addition to the foregoing, any damages that he has sustained, and may be awarded treble damages, in the discretion of the court.

The judgment rendered in any action maintained for the recovery of fees or damages sustained in accordance with the terms of this section or the judgment rendered in any action defended by a student, shall, if the student is the prevailing party, include court costs, including a reasonable attorney's fee fixed by the court.

The provisions of this section shall supplement and not displace the authority granted the Division of Labor Law Enforcement under Section 1650 of the Labor Code to the extent that placement activities of trade schools are subject to regulation by the division under Section 1649 of the Labor Code.

Prohibition on Selling or Bartering Diploma or Offering or Conspiring to Do So

29036. No person, firm, association, partnership or corporation may sell, barter, offer to sell or barter, or conspire to sell or barter, any diploma or degree as defined in this article.

Prohibition on Buying or Obtaining Diploma by Barter or Attempting or Conspiring to Do So

29037. No person, firm, association, partnership or corporation may buy, obtain by barter, attempt to buy or obtain by barter, or conspire to obtain by barter or buy, any diploma or degree as defined in this article.

Prohibition on Use or Attempt or Conspiracy to Use Diplomas Illegally Obtained

29038. No person, firm, association, partnership or corporation may use in connection with any business, trade, profession or occupation, or attempt to use in connection with any business, trade, profession or occupation, or conspire to use in connection with any business, trade, profession or occupation, any degree, diploma, certificate, transcript or document, as defined in this article (commencing at Section 29001), which has been purchased, obtained by barter, fraudulently or illegally issued, illegally obtained, counterfeited, materially altered or found.

Prohibition on Using, Giving or Receiving Diploma, or Attempting or Conspiring to Do So When Evidenced Course of Study or Scholastic Achievement Not Attained

29039. No person, firm, association, partnership or corporation may:

(a) Use in connection with a business, trade, profession or occupation, or give or receive;

(b) Attempt to use in connection with a business, trade, profession or occupation, or attempt to give or receive;

(c) Conspire to use in connection with a business, trade, profession or occupation, or conspire to give or receive;

any diploma or degree evidencing the undertaking or completion of any course of study or scholastic achievement attained if, in fact, said course of study has not been undertaken nor completed or if such scholastic achievement has not been attained.

Use of Great Seal of State Prohibited

29040. No person, firm, association, partnership, or corporation shall use or allow the use of any reproduction or facsimile of the Great Seal of the state on any diploma.

This section does not apply to the University of California, or to the California State University and Colleges, any community college or to any school which is part of the public school system.

Penalty for Violation

29042. Any person, firm, association, partnership or corporation willfully violating any provision of Section 29036, 29037, 29038, 29039 or 29040 is guilty of a felony and is punishable by imprisonment in the state prison not exceeding five years or by a fine of not less than one thousand dollars (\$1,000) or by both such fine and imprisonment. Any person, firm, association, partnership or corporation willfully violating any other provision of this article (commencing at Section 29001) is punishable, for a first offense, by imprisonment in the county jail not exceeding one year, or by fine not exceeding five hundred dollars (\$500) or both; and any second or subsequent offense shall be a felony punishable by imprisonment in the state prison not exceeding five years or by fine not less than one thousand dollars (\$1,000) or by both such fine and imprisonment.

Effect of Partial Unconstitutionality; Legislative Declaration of Divisibility

29044. If any section, subsection, sentence, clause or phrase of this article is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this article. The Legislature hereby declares that it would have passed this article, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases to be declared unconstitutional.

Duties of Superintendent of Public Instruction and Attorney General

29045. (a) The Superintendent of Public Instruction and the Attorney General shall take cognizance of the fact that both have definite duties and responsibilities under the provisions of this article.

(b) The Superintendent of Public Instruction shall report any information concerning possible violations of this article to the Attorney General.

(c) The Attorney General shall make such investigations as are necessary to determine whether or not there has been compliance with the provisions of this article.

Powers of Attorney General

29046. The Attorney General is hereby authorized to take such actions as are necessary, including the obtaining of injunctive relief, to enforce the provisions of this article.

APPENDIX B

DEGREE-GRANTING INSTITUTIONS
AND THEIR ACCREDITATIONS

Degree-Granting Institutions and Their Accreditations

WASC: Western Association of Schools and Colleges--the regional accrediting agency for California which is recognized by the U.S. Commissioner of Education.

The accreditations which appear after the institution name may not include all accreditations held by that institution.

Please see list of accrediting agencies for names of specialized accrediting agencies.

Institutions have been listed here under the category of their highest degree-granting authorization. For example, if a school has filed under A-1 and A-3, its name will appear only on the A-1 list. Similarly, if a school is approved under A-2 and has also filed under A-3, the name will appear only on the A-2 list.

A-1 Institutions (99 schools)

American Baptist Seminary of the West: Association of Theological Schools
Armstrong College: WASC
Art Center College of Design: WASC, Art.
Azusa Pacific College: WASC, Assoc. of American Bible Colleges
Bathany Bible College: WASC, Assoc. of American Bible Colleges.
Biola College: WASC, Music, Assoc. of American Bible Colleges
Brooks Institute: WASC
California Baptist College: WASC
California College of Arts and Crafts: WASC, Art.
California College of Mortuary Science: WASC, Funeral Service Education.
California College of Podiatric Medicine: WASC, Podiatry.
California Institute of the Arts: WASC, Music, Art.
California Institute of Technology: WASC, Engineering.
California Lutheran College: WASC
California Western University School of Law: Law, Committee of Bar Examiners
Center for Early Education: WASC, Also A-2 approval
Chapman College: WASC, Social Work Education.
Church Divinity School of the Pacific: Assoc. of Theological Schools
Claremont Graduate School: WASC
Claremont Men's College: WASC
Cogswell College: Engineering, also A-2 approval
College of Notre Dame: WASC, Music, Teacher Education, Social Work Education.
Deep Springs College: WASC
Dominican College of San Rafael: WASC
Don Bosco Technical Institute: WASC
Electronic Technical Institute: National Association of Trade and Technical Schools.
Franciscan School of Theology: WASC, Assoc. of Theological Schools
Fuller Theological Seminary: WASC, Assoc. of Theological Schools, Clinical Psychology.
Golden Gate Baptist Theological Seminary: WASC, Assoc. of Theological Schools.
Golden Gate University: WASC, Law, Collegiate Business, Committee of Bar Examiners.
Graduate Theological Union: WASC, Assoc. of Theological Schools.
Harvey Mudd College: WASC, Engineering.
Hebrew Union College: WASC
Holy Family College: WASC

Degree-Granting Institutions and Their Accreditations

A-1 Institutions (continued)

Holy Names College: WASC, Music.
Humphreys College: WASC
Immaculate Heart College: WASC, Music.
Jesuit School of Theology: WASC, Assoc. of Theological Schools
Johnston College: WASC
LaVerne College: WASC, Committee of Bar Examiners
Loma Linda University: WASC, Medicine, Dentistry, Public Health Education.
Lone Mountain College: WASC
Los Angeles Baptist College: WASC, also A-2 approval
Loyola Marymount University: WASC, Engineering, Collegiate Business, Comm. of Bar Exam.
Marymount Palos Verdes College: WASC
Menlo College: WASC, Collegiate Business.
Mennonite Brethren Biblical Seminary: WASC
Mills College: WASC
Monterey Institute of Foreign Studies: WASC
Mount Saint Mary's College: WASC, Nursing
National Technical Schools: Nat'l Assoc. Trade & Tech. Schools, Nat'l Home Study Council
Northrop University: WASC, Engineering, Committee of Bar Examiners.
Occidental College: WASC
Pacific Christian College: WASC, Assoc. of American Bible Colleges.
Pacific College: WASC
Pacific Lutheran Theological Seminary: Assoc. of Theological Schools
Pacific Oaks College: WASC
Pacific School of Religion: WASC, Assoc. of Theological Schools
Pacific Union College: WASC, Music.
Pepperdine University: WASC, Music, Law, Collegiate Business.
Pitzer College: WASC
Point Loma College: WASC
Pomona College: WASC
Rand Graduate Institute for Policy Studies: WASC
Saint Albert's College: WASC
Saint John's College: WASC
Saint Mary's College of California: WASC
Saint Patrick's College: WASC
Saint Patrick's Seminary: WASC, Assoc. of Theological Schools.
San Diego College of Business: Assoc. of Independent Colleges and Schools
San Francisco Art Institute: WASC, Art.
San Francisco College of Mortuary Science: WASC, Funeral Service Education.
San Francisco Conservatory of Music: WASC, Music.
San Francisco Theological Seminary: WASC, Assoc. of Theological Schools.
San Jose Bible College: Assoc. of American Bible Colleges
Sawyer College of Business, Los Angeles: Assoc. of Independent Colleges and Schools.
School of Theology at Claremont: WASC, Assoc. of Theological Schools.
Scripps College: WASC
Simpson College: WASC, Assoc. of American Bible Colleges.
Skadron College of Business: Assoc. of Independent Colleges and Schools.
Southern California College: WASC
Southern California College of Optometry: WASC, Optometry.
Southwestern University School of Law: Law, Committee of Bar Examiners
Stanford University: WASC, Medicine, Law, Collegiate Business, Engineering.
United States International University: WASC, Collegiate Business.
University of Judaism: WASC

Degree-Granting Institutions and Their Accreditations

A-1 Institutions (continued)

University of the Pacific: WASC, Law, Engineering, Dentistry, Music
University of Redlands: WASC, Music
University of San Diego: WASC, Law, Collegiate Business
University of San Fernando Valley College of Law: Law
University of San Francisco: WASC, Law, Collegiate Business
University of Santa Clara: WASC, Law, Engineering, Collegiate Business
University of Southern California: WASC, Engineering, Medicine, Law, Pharmacy
West Coast University: WASC
Westmont College: WASC
Whittier College: WASC, Collegiate Business
Whittier College Beverly Law School: Law
Woodbury University: WASC, Collegiate Business

Degree-Granting Institutions and Their Accreditations

Institutions have been listed here under the category of their highest degree-granting authorization. For example, if a school has filed under A-1 and A-3, its name will appear only on the A-1 list. Similarly, if a school is approved under A-2 and has also filed under A-3, the name will appear only on the A-2 list.

A-2 Institutions (28 schools)

Academy of Art: National Association of Trade and Technical Schools
American Conservatory Theatre Foundation
Brooks College
California College of Law, West Los Angeles
California Missionary Baptist Institute and Seminary
California School of Professional Psychology, San Francisco
California School of Professional Psychology, Fresno
California School of Professional Psychology, Los Angeles
California School of Professional Psychology, San Diego
Christian Heritage College
Cleveland Chiropractic College
Columbia College
The Fielding Institute
Heald Engineering College, San Francisco
Humanistic Psychology Institute
John F. Kennedy University
Linda Vista Baptist College and Seminary
Los Angeles College of Chiropractic
National University
Patten Bible College
Rancho Arroyo Colleges
Rosemead Graduate School of Psychology: WASC
San Diego College of Engineering
West Coast Bible College
Western State University College of Law: Committee of Bar Examiners
Western State University College of Law, Fullerton: Committee of Bar Examiners
Western States College of Engineering
The Wright Institute

Degree-Granting Institutions and Their Accreditations

Institutions have been listed here under the category of their highest degree-granting authorization. For example, if a school has filed under A-1 and A-3, its name will appear only on the A-1 list. Similarly, if a school is approved under A-2 and has also filed under A-3, the name will appear only on the A-2 list.

A-3 Institutions (122 Schools)

Academy of Arts and Humanities
Ambassador College
American Academy of Asian Studies
American Academy of Dramatic Arts
American College of Law
Angeles Bible College
Bauder College: National Association of Trade and Technical Schools
Berean Bible College
Cabrillo Pacific University
California Christian College
California Christian University
California College of Commerce
California College of Law, West Covina
California Graduate Institute
California Graduate School of Theology
California Institute of Asian Studies
California Institute of Transpersonal Psychology
California International University
California National Open University
California Western University
Casa Loma Institute of Technology: National Assoc. of Trade & Tech. Schools, Dent. Tech.
Central Coast University College of Law
Citrus Belt Law School
City University of Los Angeles
Colegio de la Tierra
Coleman College: Assoc. of Independent Colleges and Schools
College of Oriental Studies
Common College
Control Data Institute: National Assoc. of Trade & Technical Schools
D-Q University
Empire College: Assoc. of Independent Colleges and Schools
Eubanks Conservatory of Music and Arts
Fletcher Hills Bible College
Glendale University College of Law
Golden West University School of Law
Grace College of Discipleship and Theology
Grantham School of Engineering: National Home Study Council
Great Western University
Guild Law School
Heed University
Humphreys College of Law
Inland Christian Center College
Inner City Cultural Center
Institute of Buddhist Studies

A-3 Institutions (cont'd.)

Interior Designer's Guild (Five Branches)
Institute of Human Potential Psychology
International College
International Montessori Teachers College
Irvine University School of Law
John Knox Bible Presbyterian College and Seminary
L.I.F.E. Bible College
Laguna Beach School of Art and Design
Landmark Baptist Schools
Laurence University
Latin America Bible Institute
Lincoln University (Three Branches)
Living Word Bible College
Los Angeles Bible College and Seminary
Los Angeles Psycho-Social Center
Los Angeles University
Magna Carta University
Mary Stewart International University
Melodyland School of Theology
Mid-Valley College of Law
Miller Community College: Assoc. of Independent Colleges and Schools
Missionary Baptist College
Monterey College of Law
Music and Arts Institute
Nairobi College
New College of California
Northern California Bible College
Nyngma Institute
Ocean University
Pacific Coast Baptist Bible College
Pacific Coast University
Pacific Institute for Advanced Studies
Pacific States University
Paideia
Peninsula Conservatory of Music
Peninsula University College of Law
Pentecostal Bible College
Queen of the Holy Rosary College
Boston Montessori Institute for Teacher Training
Sacramento Baptist College and Seminary
Sacramento College of Law
Saint Stephen's Educational Bible College
San Diego Bible College
San Francisco Baptist Theological Seminary
San Francisco College of Judaic Studies
San Francisco Law School: Committee of Bar Examiners
San Joaquin College of Law: Committee of Bar Examiners
San Mateo Law School
Shiloh Bible College
South Bay University: Assoc. of Independent Colleges and Schools
South Bay University College of Law
Southern California Community Bible College
Southern California Conservatory of Music

Degree-Granting Institutions and Their Accreditations

A-3 Institutions (cont'd.)

Southern California Institute
Southern California Institute of Architecture
Southern California Institute of Psychology
Starr King School for the Ministry
Thomas Aquinas College
Trinity School of the Bible
Union University
United Church of Religious Science
United College of Business: Assoc. of Independent Colleges and Schools
United States School of Law
Universidad de Campesinos Libres
University of Pasadena School of Chiropractic
University of West Los Angeles School of Law: Committee of Bar Examiners
University Without Walls
Valley University School of Law
Van Norman University
Van Nuys Christian College
Ventura College of Law
West Coast Teachers College
Western Apostolic Bible College
Western Schools of Church Growth
Western University
Windsor University
World College West
World Institute of Avasthology

APPENDIX C

INDEPENDENT CALIFORNIA LAW SCHOOLS

TOTAL: 52
ACCREDITED: 20

Independent California Law Schools

* Indicates Accreditation by the California Committee of Bar Examiners
Indicates Accreditation by the American Bar Association

American College of Law
Armstrong College of Law
Cabrillo Pacific University
California College of Law (2 campuses)
California Western University, School of Law*#
Central Coast University College of Law
Citrus Belt Law School
Empire College
Glendale University College of Law
Golden Gate University*#
Golden West University School of Law
The Guild Law School
Humphreys College of Law (2 campuses)
John F. Kennedy University
Irvine University
LaVerne College of Law*
Lincoln University (3 campuses)
Loyola Marymount University*#
Magna Carta University
Mary Stewart International University
Mid-Valley College of Law
Monterey College of Law
New College of California
Northrop Institute of Technology School of Law*
Ocean University
Pacific Coast University
Peninsula University
Pepperdine University, School of Law*
San Francisco Law School*
San Joaquin College of Law*
San Mateo Law School
South Bay University, College of Law
Southwestern University School of Law*#
Stanford University School of Law*#
United States School of Law
University of the Pacific, McGeorge School of Law*#
University of San Diego*#
University of San Fernando Valley College of Law*
University of San Francisco*#
University of Santa Clara*#
University of Southern California*#
University of West Los Angeles School of Law*
Valley University School of Law
Van Norman University
Ventura College of Law
Western State University College of Law*(2 campuses)
Whittier College Beverly School of Law*

Public Institutions:

UC Berkeley*#
UC Davis*#
UC Irvine*#
UC Los Angeles*#
Hastings College of Law*#

Grand Total:	57
Accredited:	25

APPENDIX D

LIST OF ACCREDITING ASSOCIATIONS

Following is a list of accrediting associations recognized by the U.S. Commissioner of Education, of the U.S. Department of Health, Education, and Welfare. Accreditation by these associations qualifies California institutions to grant degrees under Division 21 of the Education Code, Section 29023, paragraph (a) 1. Also shown are codes for the accrediting associations which are used by the National Center for Education Statistics on the Higher Education General Information Survey (HEGIS).

Nationally Recognized Regional Accrediting Associations

<u>code</u>	<u>association</u>
E	New England Association of Colleges and Secondary Schools Commission on Institutions of Higher Education Commission on Vocational Technical Institutions
M	Middle States Association of Colleges and Secondary Schools Commission on Institutions of Higher Education
N	North Central Association of Colleges and Secondary Schools Commission on Colleges and Universities
NW	Northwest Association of Secondary and Higher Schools Commission on Higher Schools
S	Southern Association of Colleges and Schools Commission on Colleges
W	Western Association of Schools and Colleges Accrediting Commission for Senior Colleges and Universities Accrediting Commission for Junior Colleges

Nationally Recognized Professional Accrediting Associations

<u>code</u>	<u>association</u>
MAE	Accrediting Bureau for Medical Laboratory Schools
MLT	Medical Assistant Education (private schools and programs) Medical Laboratory Technician Education
HA	Accrediting Commission on Graduate Education for Hospital Administration Hospital Administration (graduate degree program)
BUS	American Assembly of Collegiate Schools of Business Business (baccalaureate and master's degree programs)
BI	American Association of Bible Colleges Bible College (3-year institutes, 4- and 5-year colleges)
ANEST	American Association of Nurse Anesthetists Nurse Anesthesia (professional schools)
LAW	American Bar Association Law (professional schools)

Nationally Recognized Professional Accrediting Associations
(continued)

<u>code</u>	<u>association</u>
FUSER	American Board of Funeral Service Education Funeral Service Education (independent schools, collegiate departments)
JOUR	American Council on Education for Journalism Journalism (baccalaureate professional programs)
PHAR	American Council in Pharmaceutical Education Pharmacy (professional schools)
DA	American Dental Association
DH	Dental Assisting
DT	Dental Hygiene
DENT	Dental Laboratory Technician Education Dentistry (programs leading to DDS or DMD degrees and dental specialists)
DIEA	American Dietetic Association Dietetics (coordinated undergraduate programs in dietetics and dietetic internships)
LIB	American Library Association Librarianship (master's degree programs)
APCP	American Medical Association, Council on Medical Education
CLA	Assistant to the Primary Care Physician Education
CYTO	Certified Laboratory Assistant Education
HT	Cytotechnology
MA	Histologic Technician Education
MLTE	Medical Assistant Education
MRA	Medical Laboratory Technician Education
MRT	Medical Record Administrators
MT	Medical Record Technician Education
NMT	Medical Technology
OT	Nuclear Medicine Technologist or Technician Education
PT	Occupational Therapy
RTT	Physical Therapy
RT	Radiation Therapy Technology
RESTH	Radiologic Technology
SBBT	Respiratory Therapy Specialist in Blood Bank Technology Education
MED-B	American Medical Association and Association of American Medical Colleges, Liaison Committee on Medical Education
MED	Medical Sciences, Basic (programs leading to M.D. degrees) Medicine (programs leading to M.D. degrees)
OPT	American Optometric Association Optometry (professional schools)
OSTEO	American Osteopathic Association Osteopathic Medicine (programs leading to D.O. degree)

Nationally Recognized Professional Accrediting Associations
(continued)

<u>code</u>	<u>association</u>
POD	American Podiatry Association Podiatry (baccalaureate and professional programs)
CLPSY COPSY SCPSY	American Psychological Association Psychology, Clinical (doctoral programs only) Psychology, Counseling (doctoral programs only) Psychology, School (doctoral programs only)
LDAR	American Society of Landscape Architects Landscape Architecture (first-professional degree programs)
AUD SP	American Speech and Hearing Association Audiology (master's degree programs) Speech Pathology (master's degree programs)
VET	American Veterinary Medical Association Veterinary Medicine (professional programs leading to DVM or VMD degree)
RABN	Association of Advanced Rabbinical and Talmudic Schools Rabbinical and Talmudic Education (Rabbinical and Talmudic Schools)
JRCB SRCB	Association of Independent Colleges and Schools Business (private junior colleges) Business (private senior colleges)
THEOL	Association of Theological Schools in the United States and Canada Theology (graduate professional schools)
CHIRO	Council on Chiropractic Education Chiropractic (programs leading to the D.C. degree)
PH	Council on Education for Public Health Public Health (graduate professional schools of public health)
SW	Council on Social Work Education Social Work (baccalaureate and master's degree programs)
ENG TECH	Engineers Council for Professional Development Engineering (associate and baccalaureate degree programs) Engineering Technology
ARCH	National Architectural Accrediting Board Architecture (professional schools)
PNE	National Association for Practical Nurse Education and Service Nursing (practical nurse programs)
ART	National Association of Schools of Art Art (professional schools and programs)
MUS	National Association of Schools of Music Music (baccalaureate and graduate degree programs)

Nationally Recognized Professional Accrediting Associations
(continued)

<u>code</u>	<u>association</u>
TED	National Council for Accreditation of Teacher Education Teacher Education (baccalaureate and graduate degree programs)
ADNUR	National League for Nursing
NUR	Nursing (associate degree programs)
PN	Nursing (baccalaureate and master's degree programs)
	Nursing (practical nurse programs)
FOR	Society of American Foresters Forestry (professional schools)

Newly Recognized Accrediting Associations

Association for Clinical Pastoral Education
Charles E. Hall, Jr., Executive Director
Interchurch Center, Suite 450
475 Riverside Drive
New York, New York 10027

National Accreditation Council for Agencies Serving the Blind
and Visually Handicapped
Richard W. Bleecker, Executive Director
79 Madison Avenue
New York, New York 10016

Nationally Recognized Accrediting Agencies

(non-collegiate)

Cosmetology Accrediting Commission
James R. Taylor, Executive Director
25755 Southfield Road
Southfield, Michigan 48075

National Association of Trade and Technical Schools
William A. Goddard, Secretary
2021 L Street, NW
Washington D.C., 20036

National Home Study Council
David A. Lockmiller, Executive Secretary
1601 18th Street, NW
Washington D.C., 20009

Association of Independent Colleges and Schools
(non-collegiate schools of business)
1730 'M' Street, NW
Washington, D.C., 20036
Dana Hart, Executive Secretary

APPENDIX E

DESCRIPTION OF CATEGORIES
USED FOR "TYPE OF SCHOOL"

Description of Categories used for "Type of School"

COSMETOLOGY: hairstyling for men and women

FLIGHT SCHOOLS: enrollment figures for "private pilot courses" have been included here because it is impossible to tell whether knowledge gained from such sources will be used for personal or vocational purposes

BUSINESS/CLERICAL: also marketing, salesmanship

HEALTH CAREERS: medical assistant, dental assistant, medical receptionist

HOSPITAL SCHOOLS: radiology, medical assistant, cytotechnology, vocational nursing

REAL ESTATE: courses for the salesman and the broker

MASSAGE SCHOOLS: also physical therapy

GENERAL VOCATIONAL SCHOOLS: schools offering a variety of vocational/technical programs

MODELING: men and women

THE ARTS: drama, advertising art, cartoon, fashion art, crafts, photography, fashion design, interior design, jewelry, flower design, picture framing

AUTO/APPLIANCE REPAIR: welding, motorcycle repair, machinist, household movers

BARBERING: men's hairstyling - it is expected that cosmetology and barbering will eventually merge programs

TRAVEL CAREERS: travel agent, airline host/hostess, steward training

BARTENDING: also cocktail waitress

DOG AND CAT GROOMING: also store management

DRIVING SCHOOLS: truck driver, construction equipment driver, bus driver

ELECTRONICS

BOOKKEEPING: accounting, income tax, insurance, credit collection

RELIGIOUS TRAINING: minister training, religious writing, missionary training

COMPUTER RELATED: keypunch operator, computer programmer

COMMUNICATIONS: broadcast, radio announcing, T.V. announcing

UPHOLSTERY: vinyl repair, carpet cleaning, drapery cleaning

ACADEMIC PROGRAMS: teacher training, psychology, world studies, mortuary science

SPECIALITY: meat cutting, horseshoeing, locksmith, piano tuning

HOTEL/MOTEL MANAGEMENT: apartment manager, mobile home park manager

NAVIGATION: also deep sea diving

LAW ENFORCEMENT: investigation, lie detection, security guard

ENGINEERING/DRAFTING

APPENDIX F

SURVEY FOR
THE STUDY OF PRIVATE AND PROPRIETARY
POSTSECONDARY EDUCATION IN CALIFORNIA

SURVEY FOR
THE STUDY OF PRIVATE AND PROPRIETARY
POSTSECONDARY EDUCATION IN CALIFORNIA

Project Director: Bruce Hamlett

Survey Coordinator: Gregory Trout

Staff Assistant: Peggy Chater

State of: _____

1. Name of agency: _____

2. What briefly are the responsibilities of your agency in administering the statute governing private and proprietary postsecondary educational institutions?

3. Does your agency have additional responsibilities such as:

a. Statewide planning for postsecondary education	Yes	No
b. Regulation of public institution	Yes	No
c. Veterans Administration approval	Yes	No
d. Other (Please specify)	_____	

4. Please list the number of clerical and professional staff in your agency involved in the administration of laws and regulations pertaining to private and proprietary postsecondary institutions:

Full-time professional _____

Part-time professional _____

Full-time clerical _____

Part-time clerical _____

5. What are the total number of private and proprietary postsecondary schools currently operating in your state? (Please estimate if the exact figures are unavailable)

Degree granting institutions _____

Vocational/Technical schools _____

Non-domiciled institutions _____

Total (if breakdown is not possible) _____

6. How is your agency funded and how much is allocated for each of your functions?

What were your budgetary figures for:

1975 _____

1974 _____

1973 _____

7. What are your procedures for gathering and up-dating information on private and proprietary institutions?

Source

How Often

No. of institutions

Enrollment

Programs

Graduates

Other (specify)

8. Do you feel that your agency is adequately budgeted and staffed to handle the regulatory duties specified in the statutes? (Please explain)

9. What agency is charged with and carries out the responsibility of receiving and handling educational consumer complaints? _____

10. Does a uniform complaint procedure exist? Yes No
(If yes could you please send us a copy?)

11. Are records kept of:

- a. Number of complaints
- b. Name institutions
- c. The nature of complaints

12. Is there a policy of analyzing the complaints to uncover trends or reoccurring institutions? If so, briefly describe the procedure.

13. If the complaint handling agency is separate from yours, are there set procedures for the transfer of information (such as complaint activity, frequent violators, etc.) between the two agencies? (Briefly describe)

14. Have there been any recent efforts to improve these channels of communication? (If so, briefly describe)

15. Does your statute provide for preservation of academic records in the event of school closure?

16. If not in the statutory provisions, are there agency or judicial policies requiring such record preservation?

17. If there is a policy of record preservation, how is it funded?

18. Do the statutes or agency regulations set forth a minimal tuition refund schedule or policy?

If so, could you briefly describe it?

19. Does your state have a bonding requirement for schools and/or agents of the schools?

If so, what bond limit is required?

Has the limit proven to be adequate?

20. Has the bonding requirement presented major problems in any of the following areas:

- a. Excessive cost to schools:
- b. Unavailability of a market to provide the bond;
- c. Other difficulties of the schools in procuring the necessary bond. (Please explain) _____

21. During the last year (1974) how many times was the bonding procedure used to provide indemnification to students? _____

If no records are kept, would you say:

Frequently

Several times

Infrequently

Never

22. Which, if any, would you consider to be benefits of the bonding requirements of your state:

- a. Helping to control the quality of school agents or solicitors;
- b. Providing a monetary remedy to the students;
- c. Screening out financially borderline or inadequate schools prior to licensing due to inability of school to secure the required bond;
- d. None of the above

23. Do you feel this bonding requirement might be changed in the event of a national tuition refund policy? And if so, how? _____

24. What kind of response is your state taking in view of proposed regulations in the area of educational consumer protection?

25. In your judgment, what would you say is the major deficiency in your state's current statutory provisions:

- a. Inadequate consumer protection (And, if so, what specific areas and why)
- b. Insufficient control over the quality of educational programs offered (if so, what specific areas and why)
- c. Lack of control over the private sector for state educational planning functions (If so, why)
- d. Lack of control over false and misleading advertising claims pertaining to jobs and salaries (If so, what specific areas and why)
- e. Lack of control over so-called degree mills
- f. Other (Please explain)

APPENDIX G

LIST OF SURVEY PARTICIPANTS

List of Survey Participants

Colorado	State Board for Occupational Education Ernie Ashley, Supervisor
Florida	State Board for Independent, Vocational, Technical, Trade, and Business Schools Jackie Fitzgerald, Administrator
Georgia	Proprietary Schools Standards Staff William Trussell, Supervisor
Indiana	Indiana Private School Accrediting Commission Joseph Clark, Director and Pamela Johnson
Louisiana	Proprietary School Commission Charles Coreil, Executive Director
Massachusetts	Division of Occupational Education, Office of Private Schools Rachel Winer, Coordinator
Montana	Proprietary School Bureau Jim Burns, Manager
Nevada	Commission on Postsecondary Education Institutional Authorization Merlin Anderson, Supervisor
New Mexico	Board of Educational Finance, Commission of Postsecondary Education Dr. Robert Rhodes, Coordinator
New York	Division of Special Occupational Services Dr. John Leslie, Director
Ohio	State Board of School and College Registration Frank Albanese, Exec. Secretary

List of Survey Participants (Continued)

Oregon	Vocational and Private School Licensing Loy R. Barbour, Supervisor
Pennsylvania	Private Schools and Veteran's Education Dr. John Gavenonis, Chief
Tennessee	Commission on Postsecondary Vocational Education Institutional Authorization Alan Cullum, Director
Texas	Proprietary Schools and Veteran's Education Janice Boyd, Assistant Director
Wisconsin	Educational Approval Board David Stucki, Executive Secretary

APPENDIX H

SURVEY RESULTS

Survey Results: Perceived Deficiencies and Strengths in
State Regulation of Private Institutions

- COLORADO (January 1, 1976) No weakness can yet be identified since the law has just gone into effect. The legislation is a direct response toward protecting the educational consumer at the state level.
- GEORGIA (1972) In addition to understaffing, difficulty in controlling false and misleading advertising, and a single amount surety bond for all schools were cited as problem areas. A strong point is that close contact with the schools is maintained by conducting three on-site visits each year.
- FLORIDA (1973) Deficiencies cited are lack of funds (and staff) to implement the new law, the exemption of flight schools, no school bonding requirement, and no minimum standards for instructional personnel. An act similar to the FTC's proposed rules and regulations, with advertising standards, and contractual cooling-off periods, has just been passed to provide further consumer protection.
- INDIANA (1971; New rules and regulations submitted 9/9/75) The only problem area identified is that of defining the exact punishment or penalties under the Code for individual offenses. Since 1972, the first year of the new law, 350 schools have been closed for not meeting the new standards. Strong points are that private individuals are used on the state accrediting teams and that the state agents are trained as law enforcement officers and carry the appropriate identification. The Director of the Indiana School Accrediting Commission is president of the NASASP. The lack of California participation in this organization was noted and involvement by our state was requested.
- LOUISIANA (1972) The deficiency cited is insufficient control over the quality of educational programs offered due to lack of field representatives.
- MASSACHUSETTS (1972) The major deficiency identified is the lack of control over degree mills. This responsibility, however, is outside the scope of this agency (being concerned only with non-degree-granting institutions). Legislation is pending and expected to pass (Dec. 1975).

Survey Results (Continued)

- NEVADA (1975) New legislation based upon the ECS Model Legislation was passed the summer of 1975. The only deficiency is a weak minimum refund policy (similar to California's). Under the new VA requirements for placement, six institutions have already been suspended. A major degree mill in Las Vegas was shut down in January 1976.
- MONTANA (1975) Like Nevada, new legislation was passed based upon the ECS Model Legislation. No specific deficiencies were yet identified. However, it was speculated that the section exempting certain institutions (i.e., accredited or FAA approved schools) may post potential problems.
- NEW MEXICO (1975) In addition to understaffing (only a half time position allocated), the major criticism was that the exemptions were too broad. In particular, the section referred to was the exemption of an institution whose credits or degrees are accepted for credit by at least three accredited institutions of higher learning.
- NEW YORK (1973 Revision) The major area of concern was the length of time necessary to enforce the statute in order to comply with due process requirements. The director, John Leslie, was aware of and had had experiences with degree mills operating from California.
- OHIO (1970) No major problems existed with the law. A suggestion was that statutory laws are often too restrictive (and difficult to change). Administrative rules were suggested as a better way to implement needed changes. A new procedure in Ohio requires that all schools must use their registration number in all forms of advertisements. The goal is to prevent unlicensed or out-of-state schools from advertising as easily.
- OREGON (1961; Amended 1973; SB30 proposed effective 7/1/76) Insufficient control over the quality of educational programs offered because of lack of funding was the only problem area. (Oregon, like California, receives no general fund support.) Any other deficiencies are being treated by a new law and new administrative rules and regulations pending.

• Survey Results (Continued)

PENNSYLVANIA (1947) No problems were identified. A major concern was to keep the schools in operation.

TENNESSEE (1974) This is another state that had enacted the ECS Model Legislation. No deficiencies were yet noted, with the exception of lack of adequate financing by the state.

TEXAS (1972) Budgetary and staffing limitations have resulted in insufficient control over the quality of educational programs offered. The law is now being enforced more vigorously than before. Schools are beginning to lose their licensed status.

WISCONSIN (1972) The major problem is the lack of control over degree mills. The Code as presently written does not prevent their existence. New developments include creation of a new citizen's advisory committee to the agency (Educational Approval Board) and a revised statute presently being proposed to the legislature.

APPENDIX I

PROVISIONS IN THE EVENT OF SCHOOL CLOSURE

Provisions in the Event of School Closure

	<u>Tuition Indemnification (School Bonding)</u>	<u>School & Student Record Preservation</u>
California	None	None
Colorado	\$5,000 to \$25,000 bond	Yes
Florida	None	Yes
Georgia	\$10,000 bond	Yes
Indiana	\$5,000 to \$25,000 bond	No
Louisiana	\$10,000 bond	No
Massachusetts	\$25,000 bond	No
Montana	\$10,000 bond	Yes
Nevada	\$5,000 (or more) bond	Yes
New Mexico	\$5,000 (or more) bond	Yes
New York	\$5,000 to \$20,000 bond	No
Ohio	\$10,000 bond	No
Oregon	\$2,500 bond	Yes
Pennsylvania	\$10,000 bond	No
Tennessee	\$10,000 bond	Yes
Texas	\$25,000 bond	No
Wisconsin	\$25,000 (or less) bond	No

APPENDIX J

COMPARISON CHART OF STATUTORY
AND ADMINISTRATIVE PROVISIONS

COMPARISON CHART OF STATUTORY AND ADMINISTRATIVE PROVISIONS AT THE STATE
LEVEL FOR PRIVATE (AND PROPRIETARY) POSTSECONDARY EDUCATIONAL CONSUMER
PROTECTION. BASED UPON A RANDOM SAMPLE SURVEY CONDUCTED
BY THE CALIFORNIA POSTSECONDARY EDUCATION COMMISSION STAFF. NOVEMBER 1975

STATE	DATE OF ENACTMENT	TUITION REFUND PROVISIONS		INFORMATIONAL DISCLOSURE	COOLING-OFF PERIOD	ADVERTISING STANDARDS
		% Course Completed	Amount of Refund			
California	1958	5%	80%	Must list total financial obligation on first page of contract	3 days	Must be accurate; cannot guarantee or promise employ- ment
		10	70			
		15	60			
		25	30			
		over 25%	0			
Colorado	1-1-1976	10%	90%*	Must give prospective student school catalog and any other related material affecting decision to enroll	3 days	Must be accurate
		20%	80%*			
		40%	60%*			
		60%	40%*			
		80%	20%*			
		over 80%	0			
		*minus registration				
Florida	1973	Must be equal to that of the accrediting agency for the type of school		Not mentioned	3 days	Not mentioned
Georgia	1972	0-50%	Pro-rata less 10% or \$100 whichever is less	All tuition, fees, and other charges must be a part of the student con- tract.	3 days	Must not be erroneous or misleading
		over 50%	None			

<u>STATE</u>	<u>DATE OF ENACTMENT</u>	<u>TUITION REFUND PROVISIONS</u>		<u>INFORMATIONAL DISCLOSURE</u>	<u>COOLING-OFF PERIOD</u>	<u>ADVERTISING STANDARDS</u>
		<u>% Course Completed</u>	<u>Amount of Refund</u>			
Indiana	1971 New rules and regulations submitted 9-9-75	Pro-rata less registration fee, unless using the authorized refund policy of a nationally recognized accrediting agency		Must show full charges and fees on contract	6 days	Prohibits "grandiose claims and misrepresentation; No guarantee of placement"
Louisiana	1972	Must be equal to that of the accrediting agency for the type of school		Must give student all tuition charges and fees	Not mentioned	Must be truthful, free from fraud and misrepresentation
Massachusetts	1972 New legislation expected to be passed in December, 1975	Pro-rata minus \$50 registration fee		Not mentioned	Not mentioned	Must not be unfair, deceptive, or misleading
Montana	1975	Must be fair and equitable. Must meet the minimum standards of the accrediting body for the type of Institution		Must give prospective student school catalog and any other related material affecting decision to enroll	Nothing indicated	Must not be "false, deceptive, misleading or unfair"

STATE	DATE OF ENACTMENT	TUITION REFUND PROVISIONS		INFORMATIONAL DISCLOSURE	COOLING-OFF PERIOD	ADVERTISING STANDARDS
		% Course Completed	Amount of Refund			
New Mexico	1975	0-50%	Pro-rata less \$100 registration fee (or less)	Nothing indicated	3 days	Must not be deceptive or misleading
		over 50%	None			
New York	1973	1st week 25%	85%	Must provide student with school catalog and all tuition charges and fees	7 days	Must be fairly and clearly presented--accurate and restricted to the facts
		25-50%	55%			
		over 50%	30%			
		No separate charges may be made for registration fees				
Nevada	1975	0-25%	50%	Must give prospective student school catalog and any other related material affecting decision to enroll	Nothing indicated	Must not be false, misleading, deceptive or unfair
		over 25%	0			
Oregon	1961 Amended 1973 SB 30 proposed effective July 1, 1976	0-25%	75% less registration fee	Nothing indicated	Nothing indicated	Nothing indicated
		25-50%	50% less registration fee (may not exceed \$100)			
		over 50%	None			

STATE	DATE OF ENACTMENT	TUITION REFUND PROVISIONS		INFORMATIONAL DISCLOSURE	COOLING OFF PERIOD	ADVERTISING STANDARDS
		% Course Completed	Amount of Refund			
Ohio	1970	Must meet or be more liberal than that of an accrediting agency recognized by O. E.		Must give prospective student a school catalog and be informed as to the nature of training, financial obligations and contractual rights	Nothing indicated	Must be truthful; cannot guarantee employment
Pennsylvania	1947	<u>Trade Schools</u>		Must provide student with refund policy	3 days	No guarantee of placement or wages. Cannot be fraudulent, misleading, or misrepresentative of the facts.
		Pro-rata minus 15% of the total cost or \$150 whichever is less				
		<u>Business Schools</u>				
		1st week	75%			
		25%	55%			
		25-55%	30%			
over 55%	None					
Tennessee	1974	Must be pro-rata unless the school is accredited, in which case the school can follow the accrediting agency's standards		Must give prospective student a school catalog and any other related material affecting decision to enroll	3 days	Must not be false misleading or deceptive or unfair

<u>STATE</u>	<u>DATE OF ENACTMENT</u>	<u>TUITION REFUND PROVISIONS</u>		<u>INFORMATIONAL DISCLOSURE</u>	<u>COOLING-OFF PERIOD</u>	<u>ADVERTISING STANDARDS</u>
		<u>% Course Completed</u>	<u>Amount of Refund</u>			
Texas	1972	0-10%	90% less \$50 registra- tion	Nothing Indicated	3 days	Must not be misleading or deceiving
		10-25%	75% less \$50 registra- tion			
		25-50%	50% less \$50 registra- tion			
		50-75%	25% less \$50 registra- tion			
		75 & over	0			
Wisconsin	1972	0-75%	Pro-rata less 15% or \$100, whichever is less	Every enrollment agreement must be submitted to the Educational Approval Board prior to its use. Criteria set forth in EAB 5	3 days	2 pages of advertising criteria (EAB 4)
		over 75%	None			

APPENDIX K

COMPARISON OF CALIFORNIA,
NEW YORK, AND PENNSYLVANIA

COMPARISON OF CALIFORNIA, NEW YORK AND PENNSYLVANIA ADMINISTRATION OF
PRIVATE POSTSECONDARY INSTITUTIONS AND V.A. REQUIREMENTS*

CHART I

	Budget 1975-76		Staff		Schools		Fees	
			V.A.	Licensure			Initial	
CALIF.	\$ 317,000	Licensure activities (100% from fees)	Prof.	13	5	Voc/Tech.	1,800	\$300 Voc/Tech
			Clerical	9	3	Degree-Granting	250	\$500 Degree
	<u>738,000</u>	V.A.	TOTAL	30		TOTAL	2,050	
	\$1,055,000	TOTAL					Initial	\$300 Voc/Tech
N.Y.	\$ 197,000	Licensure activities (20% License fees) 80% Gen. Fund)	Prof.	8	6	Voc/Tech.	370	\$100
			Clerical	5	5	Degree-Granting	179	\$100
	<u>370,000</u>	V.A.	Part-Time	1	1			Add'l courses
	\$ 566,000	TOTAL	TOTAL	26		TOTAL	547	-0-
PENN.	\$ 250,000	Licensure activities (approx.)	Prof.	30	5	Voc/Tech (includes 250 driver ed. schools)	549	\$200 Trade
			Clerical	11	3	Degree-Granting	-0-	\$ 50 Business
	<u>690,000</u> ¹	V.A.	TOTAL	49		Out-of-State	160	\$200 Trade
	\$ 940,000	TOTAL				TOTAL	709	\$ 25 Business
							Add'l courses	-0-

*Figures obtained from O.D. Russell and Herb Summers (California); Dr. John Leslie (Director) (New York); and Dr. John Gavenonis, (Director) (Penn.).

¹Plus \$110,000 administrative overhead

APPENDIX L

CHARACTERISTICS OF STATE
ADMINISTRATIVE AGENCIES

CHARACTERISTICS OF STATE ADMINISTRATIVE AGENCIES
REGULATING PRIVATE POSTSECONDARY EDUCATIONAL INSTITUTIONS

State	Agency Functions	Budget (75-76)	Method of Funding ¹	Staffing ²	Number of Institutions Licensed	Ratio of Professional Staff to Institutions ³
California	1) Authorization of voc/tech institutions. 2) Authorization of degree-granting institutions. 3) SAA for VA.	Division 21 activities-\$ 317,000 VA- <u>738,000</u> TOTAL-\$1,055,000	Licensure Fees - 100% General Fund - 0	Professional - 18 Clerical - <u>13</u> TOTAL - 31	Voc/Tech - 1,600 Degree-Granting - <u>250</u> TOTAL - 1,850 (out-of-state schools are not licensed.)	1 to 100
Colorado	1) Licensure of voc/tech institutions. 2) SAA for VA.	Licensure activities - \$110,000 VA - not known	Licensure Fees - 25% General Fund - 75%	Professional - 3½ Clerical - <u>2</u> TOTAL - 5½	Voc/Tech - 75 Out-of-State Schools - <u>25</u> TOTAL - 100	1 to 33
Georgia	1) Licensure of voc/tech institutions.	Licensure activities - \$59,100	Licensure Fees - 20% General Fund - 80%	Professional - 2 Clerical - <u>1</u> TOTAL - 3	Voc/Tech - 71 Out-of-State Schools - <u>73</u> TOTAL - 144	1 to 72
Indiana	1) Licensure of voc/tech institutions. 2) Licensure of degree-granting institutions. 3) SAA for VA	Licensure activities - \$135,000 VA - not known	Licensure Fees - 50% General Fund - 50%	Professional - 6 Clerical - <u>5</u> TOTAL -11	Voc/Tech - 160 Degree-Granting - 47 Out-of-State Schools - <u>100</u> TOTAL - 307	1 to 51
Florida	1) Licensure of voc/tech institutions.	Licensure activities - \$59,000	Licensure Fees - 30% (est.) General Fund - 70%	Professional - 2 Clerical - <u>0</u> TOTAL - 2	Voc/Tech - 170 (licensed to date) Out-of-State Schools - <u>17</u> TOTAL 187	1 to 93

State	Agency Functions	Budget (75-76)	Method of Funding ¹	Staffing ²	Number of Institutions Licensed ³	Ratio of Professional Staff to Institutions ⁴
Louisiana	1) Licensure of voc/tech institutions.	Licensure activities - \$69,000	Licensure Fees - 20% General Fund - 80%	Professional - 1 Clerical - 1 TOTAL - 2	Voc/Tech - 128 Out-of-State Schools - 60 TOTAL - 188	1 to 188
Massachusetts	1) Licensure of voc/tech institutions.	figures not available	General Fund and Licensure Revenues	Professional - 6 Clerical - 4 TOTAL - 10	Voc/Tech - 140 TOTAL - 140	1 to 23
Montana	1) Licensure of voc/tech institutions.	Licensure activities - \$40,000	Licensure Fees - 10% General Fund - 90%	Professional - 1 Clerical - 1 TOTAL - 2	Voc/Tech - 54 TOTAL - 54	1 to 54
Nevada	1) Licensure of voc/tech institutions. 2) SAA for VA. 3) Licensure for private degree-granting institutions.	Licensure activities - \$30,000 VA - 23,000 TOTAL - \$53,000	Licensure Fees - 15% General Fund - 85% (est.)	Professional - 1 Clerical - 1 TOTAL - 2	Voc/Tech - 36 Degree-Granting - 1 Out-of-State Schools - 17 TOTAL - 54	1 to 54
New Mexico	1) Licensure of voc/tech institutions. 2) 1202 Commission.	Licensure activities - \$15,000 (est.) VA - 25,000 TOTAL - \$40,000	Licensure Fees - 30% (est.) General Fund - 70% (est.)	Professional - 4 Clerical - 1 TOTAL - 1 (excludes 1202 staff)	Voc/Tech - 25 Out-of-State Schools - 24 TOTAL - 49	1 to 98
New York	1) Licensure of voc/tech institutions. 2) SAA for VA.	Licensure activities - \$196,680 VA - 370,000 TOTAL - \$566,680	Licensure Fees - 19% General Fund - 81%	Professional - 16 Clerical - 12 TOTAL - 28	Voc/Tech - 370 TOTAL - 370	1 to 23
Ohio	1) Licensure of voc/tech institutions.	Licensure activities - \$65,368	Licensure Fees - 50% General Fund - 50%	Professional (full-time) - 1 Professional (part-time) - 4 Clerical - 2 TOTAL - 7	Voc/Tech - 186 TOTAL - 186	1 to 62

State	Agency Functions	Budget (75-76)	Method of Funding ¹	Staffing ²	Number of Institutions Licensed ³	Ratio of Professional Staff to Institutions
Oregon	1) Licensure of voc/tech institutions. 2) SAA for VA.	Licensure activities - \$13,600 VA - not known	Licensure Fees - 50% General Fund - 50%	Professional - 3 Clerical - <u>1</u> TOTAL - 4	Voc/Tech - 73 TOTAL - 73	1 to 24
Pennsylvania	1) Licensure of voc/tech institutions. 2) SAA for VA.	Licensure activities - \$250,000 (est.) VA - <u>690,000</u> TOTAL - \$940,000	figures not available	Professional - 35 Clerical - <u>14</u> TOTAL - 49	Voc/Tech - 549 Out-of-State Schools - <u>160</u> TOTAL - 709	1 to 20
Tennessee	1) Licensure of voc/tech institutions. 2) SAA for VA (since 1975).	figures not available	Licensure Fees - 20% (est.) General Fund - 80% (est.)	Professional - 1 Clerical - <u>1</u> TOTAL - 2	Voc/Tech - 133 Out-of-State Schools - <u>30</u> TOTAL - 163	1 to 163
Texas	1) Licensure of voc/tech institutions. 2) SAA for VA.	Licensure activities - \$164,000 VA - <u>492,000</u> TOTAL - \$656,000	Licensure Revenues - 25% General Fund - 75%	Professional - 25 Clerical - <u>11</u> TOTAL - 36	Voc/Tech - 170 Out-of-State Schools - <u>27</u> TOTAL - 197	1 to 8
Wisconsin	1) Licensure of voc/tech institutions. 2) SAA for VA.	Licensure activities - \$ 51,000 VA - <u>96,000</u> TOTAL - \$147,000	Licensure Revenues - 25% General Fund - 75% (est.)	Professional - 5 Clerical - 2 Students - <u>3</u> TOTAL - 10	Voc/Tech - 27 Out-of-State Schools - 25 Flight - <u>37</u> TOTAL - 89	1 to 18

- Percentages shown in this column do not reflect VA funds (if applicable) since the purpose is to show the relationship between licensure fees and general funding.
- Staffing figures reflect VA-funded positions if the agency is the SAA for the VA unless otherwise noted.
- The number of institutions licensed reflect only the categories of institutions regulated under each state's law.
- The ratio of staff to institutions has been computed strictly on a direct relationship of the figures shown in columns 4 and 5 and not actual staff workloads.

APPENDIX M

STATE BONDING REQUIREMENTS
AND LICENSURE FEES

STATE BONDING REQUIREMENTS AND LICENSURE FEES
FOR PRIVATE POSTSECONDARY EDUCATIONAL INSTITUTIONS
BASED UPON A 16-STATE SURVEY CONDUCTED BY CPEC, NOVEMBER 1975

State	Bonds		Licensure Fees	
	Schools	Agents	Initial	Renewal
California	None	\$1,000 (out-side sales only)	\$500 Degree-Granting	\$150
Colorado	\$5,000 to \$25,000	\$5,000	\$200	\$375 (3 years)
Florida	None	None	\$200	\$50
Georgia	\$10,000	None	\$100	\$50
Indiana	\$5,000 to \$25,000	\$1,000	\$100	\$25
Louisiana	\$10,000	\$1,000	\$100	\$50
Massachussets	\$25,000	\$1,000	\$100	\$50
Montana	\$10,000	\$1,000	\$50	\$25
Nevada	\$5,000 or more	\$5,000	\$50	\$50
New Mexico	\$5,000 or more	\$5,000	\$100	\$50
New York	\$5,000 to \$20,000	\$1,000	\$100	\$100
Ohio	\$10,000	\$1,000	\$100	\$50
Oregon	\$2,500	\$1,000 (in-state) \$2,500 (out-of-state)	\$50	\$50
Pennsylvania	\$10,000		\$200	\$200
Tennessee	\$10,000	\$5,000 (out-of-state only)	\$100	\$25
Texas	\$25,000	\$1,000	\$250	\$200
Wisconsin	\$25,000 or lower	\$1,000	\$100	\$100

APPENDIX N

COMPLAINT HANDLING PROCEDURES,
INVESTIGATORY, AND ENFORCEMENT POWERS

COMPLAINT HANDLING PROCEDURES, INVESTIGATORY AND ENFORCEMENT POWERS

<u>State</u>	<u>Standard Com- plaint Procedure</u>	<u>Agency With Primary Investigatory Powers</u>	<u>Agency With Enforcement Powers (Injunctions)</u>
California	Yes	Attorney General	Attorney General
Colorado	Yes	State Bd. for Occ. Educ.	State Bd. for Occ. Educ.
Florida	Yes	State Board for Indep. Schools	State Bd. for Indep. Schools
Georgia	Yes	Prop. Schools Standard Staff	Prop. Schools Standard Staff
Indiana	Yes	Priv. Schools Accred. Comm.	Priv. Schools Accred. Comm.
Louisiana	Yes	Prop. School Commission	Prop. School Commission
Massachusetts	Yes	Office of Private Schools	Office of Private Schools
Montana	Yes	Prop. School Bureau	Prop. School Bureau
New Mexico	Yes	Not known	Not known
New York	Yes	Div. of Spec. Occup. Services	Div. of Spec. Occup. Services
Nevada	Yes	Comm. on Postsec. Educ. Autho.	Comm. on Postsec. Educ. Autho.
Ohio	Yes	Board of School & College Reg.	Board of School & College Reg.
Oregon	No	Voc. and Priv. School Licensing	Voc. and Priv. School Licensing
Pennsylvania	No	Board for Private Schools	Board for Private Schools
Tennessee	No	Comm. on Postsec. Voc. Inst. Auth.	Comm. on Postsec. Voc. Inst. Auth.
Texas	No	Division of Prop. Schools	Attorney General
Wisconsin	Yes	Education Approval Board	Education Approval Board

APPENDIX O

STATE REGULATORY AGENCIES FOR
APPROVAL/LICENSING OF PRIVATE
POSTSECONDARY EDUCATIONAL INSTITUTIONS

STATE REGULATORY AGENCIES FOR APPROVAL/LICENSING OF PRIVATE POSTSECONDARY
EDUCATIONAL INSTITUTIONS AND STATEWIDE EDUCATIONAL PLANNING COMMISSIONS

<u>State</u>	<u>Private, Non-Degree Granting Institutions</u>	<u>Private Degree-Grant- ing Institutions</u>	<u>Source: 16 St. survey conducted by the Ca. Postsec. Educ. Comm., Nov. 1975 Planning Comm. 1202-3</u>
California	Bureau of School Approvals	Bureau of School Approvals	Postsecondary Education Comm.
Colorado	St. Bd. for Occ. Education	Commission on Higher Educ.	Commission on Higher Education
Florida	St. Bd. for Indep. Schools (Voc., Tech., Trade, & Bus.)	St. Bd. of Indep. Colleges and Universities	Comm. on Postsec. Education
Georgia	Prop. Schools Standard Staff ¹	Department of Education	Postsecondary Education Comm.
Indiana	Priv. School Accred. Comm.	Priv. School Accred. Comm.	Postsecondary Education Comm.
Louisiana	Prop. School Commission	Board of Regents	Board of Regents
Massachusetts	Office of Private Schools	Board of Higher Education	Postsecondary Education Comm.
Montana	Prop. School Bureau	Bd. of Regents for Higher Education	Bd. of Regents for Higher Educ.
¹ Nevada	Comm. on Postsec. Educ. Auth.	Comm. on Postsec. Educ. Auth. ²	1202 Commission
New Mexico	Bd. of Educational Finance ³	Comm. on Postsec. Education	Comm. on Postsecondary Educ.
New York	Div. of Special Occ. Services	Board of Regents	Board of Regents
Ohio	Bd. of School & College Reg. ⁴	Board of Regents	Board of Regents
Oregon	Voc. & Priv. School Licensing	Educ. Coordinating Comm.	Educ. Coordinating Comm.
Pennsylvania	Board for Private Schools	Bureau of Academic Programs	State Board of Education
Tennessee	Comm. on Postsec. Inst. Auth.	Higher Education Commission	None
Texas	Div. of Prop. Schools	Coordinating Board	Governor's Advisory Committee (Temporary)
Wisconsin	Educ. Approval Board ⁵	Department of Education	None

1. Georgia - Approves two-year occupational associate degrees also.

2. Nevada - Has only one private, degree-granting institution.

3. New Mexico - Approves two-year occupational associate degrees also (only two in the state).

4. Ohio - Has recently approved criteria for approval of institutions offering two-year degrees.

5. Wisconsin - Has two private degree-granting institutions which offer two-year associate degrees only.

APPENDIX P

COMPARISON OF ECS MODEL
LEGISLATION TO DIVISION 21

Comparison of ECS Model Legislation to Division 21

The following table exhibits the major provisions contained in the ECS Model Legislation and Division 21 as they pertain to (1) institutions regulated, (2) administrative agency powers and duties, and (3) consumer protection.

I. Regulated Institutions

<u>ECS</u>	<u>Division 21</u>
All private, postsecondary educational institutions except:	All private, postsecondary educational institutions except:
-- avocational or recreational programs	-- accredited degree-granting institutions
-- programs offered by an organization for its members	-- accredited diploma-granting institutions
-- programs offered on a non-fee basis	-- (A)(3) degree-granting institutions
-- programs offered by religious groups not leading toward educational credentials	-- accredited law schools
	-- schools accredited, approved, or licensed by a state board or agency
	-- hospitals issuing diplomas
	-- religious or church courses
	-- out-of-state correspondence schools doing business in California

II. Administrative Agency Powers and Duties

ECS

- Establish minimum standards with which schools must comply prior to obtaining authorization to operate
- Act upon applications
- Promulgate rules and regulations and conduct hearings on administrative policies and decisions
- Negotiate and enter into interstate reciprocity agreements with other states
- Receive and maintain permanent files of student records when institutions close
- Maintain a list of schools available to the public
- Receive and investigate complaints
- Conduct investigations
- Exercise other "implied" powers and duties
- Issue cease and desist orders
- Apply to courts for injunctions and temporary restraining orders
- Award damages to injured parties
- Hold hearings for complaint resolution

Division 21

- Establish policy for administration of law
- Act upon applications
- Adopt regulations in accordance with Chapter 4.5 of the Government Code
- Prepare an annual budget
- Report information regarding violations to the Attorney General
- Compile an annual directory of schools

III. Consumer Protection

A. Informational Disclosure

ECS

The student must be provided with a catalog or brochure containing information describing the programs offered, the program objectives, length of the program, schedule of tuition fees, and all other expenses, cancellation and refund policies, and all other facts concerning the institution and program likely to affect the decision to enroll.

Division 21

The total financial obligation must be shown on the agreement contract.

B. Tuition Indemnification

ECS

A good and sufficient surety bond in an amount to be determined by the state.

Division 21

No provision.

C. Record Preservation

ECS

The state agency is to obtain and keep all institutional records in the event of school closure.

Division 21

No provision.

D. Minimum Tuition Refund Policy

ECS

The refund policy must be fair and equitable.

Division 21

<u>Course Completed</u>	<u>Refund</u>
Up to 5%	80%
10%	70%
15%	60%
20%	50%
25%	-0-

E. Name Restrictions

ECS

No institution may use the title "college" or "university" unless approved to do so.

Division 21

No provision.

F. Advertising

ECS

The institution may not engage in advertising which is false, deceptive, misleading, or unfair.

Division 21

Ten specific requirements for truthfulness and accuracy in advertising.

APPENDIX Q

TECHNICAL ADVISORY COMMITTEE
ON THE ADMINISTRATION OF DIVISION 21

TECHNICAL ADVISORY COMMITTEE
ON THE ADMINISTRATION OF DIVISION 21

Ms. Sherri Brown
Deputy Attorney General
San Francisco, California

Mr. James D. Knauss
Executive Secretary
Board of Barber Examiners
Sacramento, California

Ms. Seela Lewis
Federal Trade Commission
San Francisco, California

Mr. James B. Margetts
Executive Secretary
Board of Cosmetology
Sacramento, California

Mr. Clifford O'Connell
Field Representative
Bureau of School Approvals
Department of Education
Sacramento, California

Mr. Edmund E. White
Deputy Attorney General
Sacramento, California

Ms. Christine Ford
Department of Consumer Affairs
Sacramento, California

APPENDIX R

TECHNICAL ADVISORY COMMITTEE
ON STUDY OF PRIVATE POSTSECONDARY
EDUCATION IN CALIFORNIA

TECHNICAL ADVISORY COMMITTEE
ON STUDY OF PRIVATE POSTSECONDARY
EDUCATION IN CALIFORNIA

Mr. Donald Bogue
Andon College
San Jose, California

Mr. Richard Gross
Richard's Beauty College
Ontario, California

Mr. Dan Heffernan
Sequoia Institute
Mountain View, California

Mr. Cleve Cunningham
Executive Director
Association of California Educators
Oakland, California

Mr. Peter Hobbs
San Diego College of Business
San Diego, California

Dr. John Humphreys
Humphreys College
Stockton, California

Mr. Ervin Skadron
Skadron College of Business
San Bernardino, California

Mr. Robert McBirnie, Dean
Western Schools of Church Growth
Long Beach, California

APPENDIX S

MAJOR RECOMMENDATIONS OF THE
FIRST CONFERENCE ON
CONSUMER PROTECTION IN POSTSECONDARY EDUCATION

MAJOR RECOMMENDATIONS OF THE FIRST CONFERENCE ON
CONSUMER PROTECTION IN POSTSECONDARY EDUCATION

1. That the states should provide by legislation or by administrative mechanisms, minimal consumer protection safeguards that would assure proper redress for every student residing in the state. Illustrative of minimum safeguards are:

- a. Equitable refund and restitution policies for tuition and fees.
- b. Licensing and bonding requirements for agents.
- c. Specifications for contractual relationships.
- d. Minimum standards relating to advertising and recruitment.

Moreover, the U. S. Department of Health, Education and Welfare and the Veterans Administration should consider withdrawing funds from those schools that fail to comply with these minimal safeguards.

2. That the U. S. Office of Education should maintain continuous review of its standards utilized for designation of recognized accrediting bodies, with issues of consumer protection in mind.
3. That there be created a federal tuition insurance corporation that would have as its essential purpose the protection of students and their records when postsecondary schools close.
4. That the Education Commission of the States serve as a catalyst for the development of a clearinghouse of information, which in effect would be a data bank of information on all postsecondary education programs. Such a data bank would enable students, prospective students, counselors and other consumers of postsecondary education services to make informed judgments regarding selection of institutions and/or the programs that would be responsive to their needs. Illustrative of such data would be requirements of admission, cost of attendance, refund policies, transferability of credit, actual job placement and other assistance available to graduates or those who attend such programs. (While it is recognized that a great deal of this information exists, there does not exist a comprehensive single source of such information systematically collected and up-dated for all of postsecondary education. It is in this context that the recommendation is offered.)

5. That there be improved links of communication between consumer organizations and education groups. It is essential that the recommended information clearinghouse have this as an essential purpose. This would provide for sharing of information with groups such as regulatory agencies, accrediting associations, statewide coordinating agencies and federal agencies, all sharing vital information about postsecondary education institutions and their constituents with mutual understanding and trust.
6. That in terms of advertising and recruitment, there should be disclosure by the schools based on their proven placement record and graduate assistance if such material is used as the basis for advertising or recruitment, actual or implied.
7. That there be made available at each postsecondary education institution adequate administrative procedures, involving student participation, for acting upon student complaints pertaining to institutional learning experiences as well as student complaints pertaining to institutional management of student life, activities or disciplines.
8. That all postsecondary education institutions should consider offering some educational training and experiences which would familiarize students with their consumer citizen roles.
9. That the report of the conference and its recommendations be disseminated to policymakers and educators at all levels, particularly legislators at the state level.
10. That there be assembled a followup conference, with conferees being invited from the same representations as this conference, but smaller in number, in order to take four or five key recommendations and develop modes of their implementation, including assignments of responsibility.

APPENDIX T

A-3 SCHOOLS BY TYPE

APPENDIX T

A-3 SCHOOLS BY TYPE

Arts	11
Business	6
Chiropractic	1
Ethnic and Foreign Studies	6
General Collegiate	19
Law	28
Psychology	7
Religious	38
Teacher Training	4
Technology	4
TOTAL	124*

* Total figures differ because additional schools have been discovered since Fall, 1975.

ARTS

Academy of Arts and Humanities
American Academy of Dramatic Arts
Bauder College
Eubanks Conservatory of Music and Arts
Inner City Cultural Center
Interior Designer's Guild
Laguna Beach School of Art and Design
Music and Arts Institute
Peninsula Conservatory of Music
Southern California Conservatory of Music
Southern California Institute of Architecture

BUSINESS

California College of Commerce
Coleman College
Empire College
Kensington University
South Bay University
United College of Business

CHIROPRACTIC

University of Pasadena School of Chiropractic

ETHNIC AND FOREIGN STUDIES

American Academy of Asian Studies
California Institute of Asian Studies
Colegio de la Tierra
D-Q University
Nairobi College
Universidad de Campesinos Libres

GENERAL COLLEGIATE

Ambassador College
California International University
California National Open University
California Western University
City University Los Angeles
Common College
Great Western University
International College
Lincoln University
Los Angeles University

GENERAL COLLEGIATE (con't)

Mary Stewart International University
Miller Community College
New College of California
Union University
University Without Walls
Van Norman University
Western University
Windsor University
World College West

LAW

All American University
American College of Law
Cabrillo Pacific University
California College of Law
California Law Institute
Central Coast University, College of Law
Citrus Belt Law School
Glendale University College of Law
Golden West University School of Law
The Guild Law School
Heed University
Humphreys College of Law
Irvine University School of Law
Magna Carta University
Mid-Valley College of Law
Monterey College of Law
Ocean University
Pacific Coast University
Peninsula University College of Law
Sacramento College of Law
San Francisco Law School
San Joaquin College of Law
San Mateo Law School
South Bay University College of Law
United States School of Law
University of West Los Angeles School of Law
Valley University School of Law
Ventura College of Law

PSYCHOLOGY

California Graduate Institute
California Institute of Transpersonal Psychology
Institute of Human Potential Psychology
Los Angeles Psycho/Social Center

PSYCHOLOGY (con't)

Pacific Institute for Advanced Studies
Southern California Institute of Psychology
World Institute of Avasthology

RELIGIOUS

Angeles Bible College
Berean Bible College
California Christian College
California Christian University
California Graduate School of Theology
College of Oriental Studies
Fletcher Hills Bible College
Grace College of Discipleship and Theology
Inland Christian Center College
Institute of Buddhist Studies
John Knox Bible Presbyterian College and Seminary
Landmark Baptist Schools
Latin American Bible Institute
L.I.F.E. Bible College
Living Word Bible College
Los Angeles Bible College and Seminary
Melodyland School of Theology
Missionary Baptist College
Northern California Bible College
Nyingma Institute
Pacific Coast Baptist Bible College
Pentecostal Bible College
Queen of the Holy Rosary College
Sacramento Baptist College and Seminary
San Diego Bible College
San Francisco Baptist Theological Seminary
San Francisco College of Judaic Studies
Shiloh Bible College
Southern California Community Bible College
Southern California Institute
St. Stephens Educational Bible College
Starr King School for the Ministry
Thomas Aquinas College
Trinity School of the Bible
United Church of Religious Science
Van Nuys Christian College
Western Apostolic Bible College
Western Schools of Church Growth

TEACHER TRAINING

International Montessori Teachers College
Laurence University
Roston Montessori Institute for Teacher Training
West Coast Teacher's College

TECHNOLOGY

Casa Loma Institute of Technology
Control Data Institute
Grantham School of Engineering
Pacific States University

APPENDIX U

COMPARISON OF REFUND SCHEDULE PROPOSED BY
THE CALIFORNIA POSTSECONDARY EDUCATION COMMISSION
WITH THE EXISTING DEPARTMENT OF EDUCATION SCHEDULE

**COMPARISON OF REFUND SCHEDULE PROPOSED BY THE CALIFORNIA POSTSECONDARY
EDUCATION COMMISSION WITH THE EXISTING DEPARTMENT OF EDUCATION SCHEDULE
(50 Classes \$600)**

CLASSES		COMMISSION PROPOSAL					DEPARTMENT OF EDUCATION PROPOSAL				
		REFUND to student			PAID by student		REFUND to student			PAID by student	
		amount (3)	(-) reg fee (4)	TOTAL refund (5)	TOTAL paid (6)	% of total contract price (7)	amount (8)	(-) reg fee (9)	TOTAL refund (10)	TOTAL paid (11)	% of total contract price (12)
2	4%	\$576	\$75	\$501	\$ 99	16%	\$480	\$50	\$430	\$170	28%
5	10%	\$540	\$75	\$465	\$135	22%	\$420	\$50	\$370	\$230	38%
10	20%	\$480	\$75	\$405	\$195	30%	\$300	\$50	\$250	\$350	58%
12	24%	\$456	\$75	\$381	\$219	36%	\$180	\$50	\$130	\$470	78%
15	30%	\$420	\$75	\$345	\$255	42%	NO REFUNDS				
20	40%	\$360	\$75	\$285	\$315	52%					
25	50%	\$300	\$75	\$225	\$375	62%					

(100 Classes \$500)

CLASSES		COMMISSION PROPOSAL					DEPARTMENT OF EDUCATION PROPOSAL				
		REFUND to student			PAID by student		REFUND to student			PAID by student	
		amount (3)	(-) reg fee (4)	TOTAL refund (5)	TOTAL paid (6)	% of total contract price (7)	amount (8)	(-) reg fee (9)	TOTAL refund (10)	TOTAL paid (11)	% of total contract price (12)
5	5%	\$475	\$75	\$400	\$100	20%	\$400	\$50	\$350	\$150	30%
10	10%	\$450	\$75	\$375	\$125	25%	\$350	\$50	\$300	\$200	40%
12	12%	\$440	\$75	\$365	\$135	27%	\$300	\$50	\$250	\$250	50%
15	15%	\$425	\$75	\$350	\$150	30%	\$300	\$50	\$250	\$250	50%
20	20%	\$400	\$75	\$325	\$175	35%	\$250	\$50	\$200	\$300	60%
21	21%	\$395	\$75	\$320	\$180	36%	\$150	\$50	\$100	\$400	80%
25	25%	\$375	\$75	\$300	\$200	40%	\$150	\$50	\$100	\$400	80%
30	30%	\$350	\$75	\$275	\$225	45%	NO REFUNDS				
40	40%	\$300	\$75	\$225	\$275	55%					
50	50%	\$250	\$75	\$175	\$325	65%					

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APPENDIX V

SECTIONS OF THE EDUCATION CODE
TO BE
AFFECTED BY COURT DECISION

SECTIONS OF THE EDUCATION CODE
TO BE AFFECTED BY COURT DECISION*

- Sec. 1070 : Vocational and Educational Counseling: The governing board of any school district may offer a program of vocational and educational counseling. . A governing board of a school district which offers such counseling services may contract with the governing boards of any other school districts, or private schools, or other public and private agencies or organizations, to render such counseling service to persons who reside within or outside the school district offering such counseling services.
- Sec. 5721 : Classes in a Nursing Program: The governing board of any district offering a nursing program, or related program in the healing arts, either in regular graded classes or in classes for adults, may maintain classes in such a program at hospitals located within or without the district for the purpose of providing the hospital training for students in such classes.
- Sec. 5747 : Special classes for handicapped adults may be conducted under the direction of the governing board of the school district in workshop and training facilities provided by nonprofit organizations, or in public school facilities.
- Sec. 5989.5 : Work Experience for Mentally Retarded Students: The governing board of any school district which establishes and supervises a work experience education program in which mentally retarded pupils are employed in part-time jobs may use funds derived from any source, to the extent permissible by appropriate law or regulation, to pay the wages of pupils so employed.
- Sec. 6003 : The Department of Aeronautics is authorized to make available to public schools offering actual flight experience as part of the regular curriculum a basic insurance program and to assure that adequate

*This is not meant to be a complete listing of all sections of the Education Code which may be affected by a court decision that it is constitutional for public schools to contract with private schools or organizations.

supervision and precautionary measures are taken by the flight school operators contracted to provide services for public school students. The governing board of any school district offering actual flight experience as part of the regular curriculum may participate in the basic insurance program provided by the commission and pay from the funds of the district a pro rata share of the cost of the insurance program.

Sec. 6458(c) : The State Board of Education shall act, upon recommendation of the Advisory Compensatory Education Commission, to establish a priority listing of the following program elements which shall be used in the approval of school district plans to determine those elements which shall be emphasized on a statewide basis:

(c) Preschool programs provided through the use of either school facilities, other public or private facilities, or any combination thereof, for children three years of age or older, involving intensive parent participation, established pursuant to standards prescribed by the State Board of Education.

Sec. 6770 : Tuition for Handicapped Pupils: With the approval of the Superintendent of Public Instruction, any school district having an educationally handicapped student as defined by this chapter for whom, because of the severity of the handicap, special education facilities and services are not available and cannot be reasonably provided under the provisions of this chapter, and for whom the State of California has no appropriate special education facilities and services, may, in lieu of establishing and maintaining the needed special education facilities and services at an unreasonable cost to the district, pay to the parent or guardian of such pupil toward the tuition for such pupil, enrolled in a public or private nonsectarian school within or outside of California offering the special education facilities and services made necessary by the pupil's handicap, an amount not to exceed the sum per unit of average daily attendance of the regular state apportionment to the district for the fiscal year in question, the maximum amount allowable per unit of average daily attendance for excess current

expenses under Sections 18060 and 18102, and the amount per unit of average daily attendance provided from revenue derived from district taxation for support of the schools of the district.

- Sec. 6871 : A lengthy section which deals with the payment of parent or guardian of a handicapped student as outlined in 6770 above. Also makes allowance for cost of student to travel to the school if at a distance from the district. Allows for the recommendation of physician or ophthalmologist that the student attend a specific school with appropriate special education facilities. Priority shall be given to special education facilities at public schools or in state-supported programs. If the student attends a private nonsectarian school with special education facilities, the school shall submit a yearly progress report on each student to the county superintendent of schools, or to the county authorizing placement.

- Sec. 6932 : School Districts and county superintendents of schools may contract with sheltered workshops and other work establishments approved for supervised occupational training of physically handicapped and mentally retarded pupils under the age of 21 years, and reimburse such sheltered workshops and work establishments for the expenses incurred in the training of such pupils.

The Superintendent of Public Instruction shall reimburse school districts and county superintendents of schools for the cost per pupil per year, or fraction thereof, for the services provided by the sheltered workshops and work establishments.

Such reimbursement shall be the cost of such service not to exceed six hundred fifty dollars (\$650) per year, less the share of the school district or county superintendent of schools, as determined pursuant to rules and regulations adopted by the State Board of Education.

- Sec. 6934 : County superintendent of schools, high school districts and unified school districts which do not have a sheltered workshop available to them within a reasonable commuting distance may sponsor or operate sheltered workshops or training centers for handicapped students and individuals eligible

to attend high school or adult school, develop job-training situations based upon the capabilities of the individual by entering into contracts or sub-contracts to produce goods for, and provide services for public and private agencies, private business and industry, and pay such students and individuals on a piece-rate basis from revenues derived from any source not otherwise prohibited by law, as regulated by state and federal wage and hour laws applicable to persons employed in a sheltered workshop.

Sec. 6961-
6965

: The Guaranteed Learning Achievement Act of 1971:
(A lengthy section, parts have not been cited here)
. . . On the basis of these findings, it is the intent and purpose of this Legislature in enacting this chapter relating to experimental projects:

1. To increase significantly the achievement levels in reading and mathematics of children attending California public schools in the primary and elementary grades, as defined, through the use of contracts between public school districts and private contractors;
2. To provide that such contracting shall be on the basis of a "performance guarantee," whereby each private contractor is reimbursed on the basis of the performance and achievement of each child involved in the special experimental program;
3. To make the fullest use of federal funds which are or may become available for aid to public education in this state, especially for innovative and original public school programs;
4. To reinforce in public education the private enterprise concept of accountability for results, as measured by specific pupil achievement and mastery of basic skills, by holding the contractor and the school district directly responsible for a student's achievement and mastery of basic skills, or the lack thereof;

5. To demonstrate the effectiveness of new and innovative approaches to learning, which may later be capable of being transferred operationally to the public school system;
6. To reduce, consistent with quality and improved student achievement, future projected public school costs in this state.

It is the further intent of the Legislature that the programs authorized by this chapter shall be experimental in nature and that the programs be conducted on a limited scale, with the results derived therefrom to be analyzed to determine the feasibility of general application of the methods of the program.

6963(b): "Private contractor" means any private individual, partnership, joint venture, firm, corporation, teacher's association, or other business entity involved and doing business in the field of educational research, testing, methodology, or any other aspect of the educational program, organized, registered, or licensed to lawfully do business in the State of California, and bonded.

6963(d): "Performance Guarantee contract" means a contract between a public school district and a private contractor pursuant to this chapter wherein the reimbursement to be provided by the public school district to the private contractor is based upon the measurable achievement and mastery of basic skills of students enrolled in the special program, and the maintenance of that student achievement for a period not less than six months after the date of the measurement of student achievement first required to ascertain the private contractor's reimbursement.

6963(e): "Penalty clause" means, as an integral part of every performance guarantee contract entered into pursuant to this chapter, a money penalty paid by the private contractor to the public school district with which he has contracted on account of each student who has not reached the level of achievement, mastery of basic skills, and proficiency specified in the contract and maintained that level of achievement and proficiency for at least six months thereafter.

The exact form of the contract, the performance guarantee, and the evaluation process are also spelled out in these sections.

Sec. 7497.6 : The Superintendent of Public Instruction may contract with a nonprofit corporation which he determines to be most knowledgeable about such a program to carry out the provisions of this article . . . , including, but not limited to, recruiting, training, selecting, placing, and supervising the mathematics specialists, coordinating all matters, and providing in-service training to local teaching staffs.